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Senate

State of Minnesota

S.F. No. 2919 - Omnibus Criminal Justice Policy Bill (Delete-Everything Amendment, SCS2919A-1)

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Section 1 authorizes the Governor's Office to request state and federal background checks on candidates for positions within the Governor's residence or appointment by the Governor. Requires the candidate to submit written authorization to conduct the background checks. The superintendent of the Bureau of Criminal Apprehension may recover the cost of background checks from the Governor's Office.

Section 2 authorizes the Commissioner of Corrections to order that an inmate be screened for tuberculosis if the inmate refuses to submit to a screening test.

Section 3 provides that peace officers are covered under the protocols of Minnesota Statutes, section 144.7401, regarding bloodborne pathogens, regardless of whether the officer is engaged in performing emergency services.

Section 4 strikes the "knowingly or intentionally" use clause from the definition of drug paraphernalia (the mental state criteria).

Section 5 explicitly makes selling drug paraphernalia a misdemeanor. Currently, the delivery of drug paraphernalia and the possession or manufacture for delivery is a misdemeanor. However, selling is not specifically addressed. The definition of "sell" in the controlled substance chapter of law is broad. So use of the word "sell" includes, among other conduct, delivering and manufacturing. Changes the mental state criteria for the crime from "knowingly or intentionally" to the easier to establish "knows or has reason to know." Adds the selling drug paraphernalia to a minor (currently codified in Minnesota Statutes, section 152.094) to this section.

Section 6 makes knowing possession of a bong, dugout, glass pipe, marijuana pipe, or one-hit pipe a petty misdemeanor.

Section 7 requires the court to defer further proceedings and place a defendant on probation for certain first-time drug offenders under Minnesota Statutes, section 152.18, subdivision 1. If the court finds a deferral inappropriate, it must enter a written finding that states the reasons why. Under current law, the court is not obligated to defer proceedings of first-time drug offenders who meet certain criteria.

Section 8 broadly defines “drug” by cross-reference to Minnesota Statutes, section 151.01, subdivision 5.

Section 9 defines “metabolite” as a substance produced as a result of the processing of a drug within the body.

Sections 10 to 14 broadens the definition of a driving while impaired (DWI) crime in two ways:

- ◆ by broadening the prohibition against driving while impaired by controlled substances to include the metabolites of those substances; and
- ◆ by creating a new offense for driving under the influence of a drug – whether that drug in an illegal controlled substance (already prohibited), a prescription drug, or an over-the-counter drug – provided that the person who is impaired by the drug has had a prior qualified impaired driving incident within the preceding ten years.

Section 15 exempts the court from the mandatory consecutive sentencing requirement in current law when the court is sentencing an offender for a felony-level DWI offense.

Section 16 authorizes the admission into evidence, in a criminal prosecution, the results of any test indicating the presence of a controlled substance or its metabolite, a hazardous substance, or a drug or its metabolite if the person has one or more qualified prior impaired driving incidents within ten years.

Sections 17, 18, 19, 20, 22, and 23 broaden language in DWI law referring to controlled substances to include metabolites of those substances, and also include new language referencing any drug, where applicable.

Section 21 adds a requirement that when the test results indicate the presence of a drug or its metabolite or a hazardous substance, the results of the test must be reported to the prosecuting authority only. These results are not reported to the Department of Public Safety and thus, do not trigger administrative revocation of the violator’s driver’s license. Instead, license revocation depends on obtaining a court conviction for the offense.

Sections 24 and 25 correct cross-references to nonexisting statutes.

Section 26 prohibits the Commissioner of Public Safety from administratively suspending the license of a driver if the individual was convicted of a violation of Minnesota Statutes, section 171.24, subdivision 1 (Driving After Suspension), based on a failure to appear in court, or failure to pay the fine.

Section 27 allows the payment of fees and surcharges for the reinstatement of drivers licenses for DWI, Test Refusal, or Criminal Vehicular Homicide and Injury to be made in four annual installments.

Section 28 requires the Department of Corrections to include information about prison-based mental health programs in its biennial performance report.

Section 29 authorizes the Commissioner of Corrections to rent beds from a newly constructed county or regional jail licensed to provide chemical dependency treatment. The contract may be up to five years in duration.

Section 30 requires the commissioner, upon release of an offender, to provide the corrections agency that will supervise the offender all records on the offender's prison-based substance abuse assessments, treatments, and other related services.

Section 31 requires the commissioner, by January 15, 2007, and at least once every three years thereafter, to contract for an independent review of the Department's prison-based substance abuse assessment activities.

Section 32 requires the commissioner to cooperate with community-based corrections agencies to determine the substance abuse treatment needs of offenders transitioning from prison to the community.

Section 33 requires the commissioner to keep adequate records regarding inmate participation in substance abuse treatment programs, including noncompliance with assessment recommendations.

Section 34 requires the Commissioner of Corrections to appoint the Department of Corrections medical director as the health care agent for inmates in cases where the inmate has not designated a health care decision maker.

Section 35 provides that if a prosecuting authority or sentencing court wants to comment regarding the conditional release of a nonviolent drug offender, it must specify the reasons for its position.

Section 36 extends the sunset for the conditional release of nonviolent drug offenders from July 1, 2007, to July 1, 2009.

Sections 37 to 39 amend provisions enacted last year in response to the United States Supreme Court's decision in Blakely v. Washington that specify the procedures to be used when imposing aggravated durational departures. The amendments apply the procedures to situations where the state is requesting an aggravated sentence under any sentencing enhancement statute or a mandatory minimum sentence under Minnesota Statutes, section 609.11 (minimum sentences for crimes committed with dangerous weapons). The amendments have an immediate effective date.

Section 40 requires the Commissioner of Public Safety to contract with a nonprofit organization to establish a toll-free telephone hotline for trafficking victims by January 1, 2007. The hotline must offer interpretative services in Spanish, Vietnamese, Hmong, and Somali. It must screen trafficking victims and provide appropriate referrals for assistance.

Section 41, Subdivision, 1 defines "mentoring" for the purpose of the bill.

Subdivision 2 authorizes organizations providing mentoring services to ask the Bureau of Criminal Apprehension (BCA) to conduct criminal background checks on volunteer mentors.

Subdivision 3 requires the BCA to conduct up to 15,000 background checks for mentoring organizations.

Section 42, Subdivision 1, requires the Department of Public Safety to provide information to local law enforcement agencies about best practices for handling death scene investigations.

Subdivision 2 requires the official with custody of the human remains after a death scene investigation to ensure that the remains are delivered to the appropriate medical examiner. If the remains are not identified within 24 hours, or if it cannot be determined whether the remains are human, the person with custody of the remains must notify the Department of Public Safety.

Section 43 provides that defendants found not guilty must request that the Bureau of Criminal Apprehension (BCA) destroy their biological specimens and return all records. Current law requires the BCA to automatically destroy biological specimens and return all records to persons found not guilty.

Section 44 authorizes the Department of Corrections' Fugitive Apprehension Unit access to the Bureau of Criminal Apprehension's Comprehensive Incident-Based Reporting System (CIBRS).

Section 45 authorizes the Bureau of Criminal Apprehension (BCA), under the Comprehensive Incident-Based Reporting System "CIBRS" system (See section 44), to employ a secure subscription service.

Section 46 requires the local law enforcement agency in the location where a missing person was last seen to take a missing person report from an interested party. If this cannot be determined, the law enforcement agency where the missing person last resided must take the report.

Section 47 increases the membership of the Criminal and Juvenile Justice Task Force from 34 to 35 by adding a member appointed by the state chief information officer. It also authorizes the four public members of the task force to be compensated pursuant to Minnesota Statutes, section 15.059 for meetings of the full task force.

Section 48 allows direct appeal to the fire marshal who is only obligated to consider any decision or recommendation that may have been made by the local governing body. Under current law, an appeal for a variance from the Uniform Fire Code cannot be accepted by the state fire marshal until the applicant has applied to the local governing body and the local unit has acted on the application.

Section 49 includes the definitions for “bodily harm,” “substantial bodily harm,” and “great bodily harm” from the criminal statutes for the purpose of the prohibition in section 52 and the penalties prescribed in section 53.

Section 50 provides that:

1. the change of address form for a regulated animal must be prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health;
2. the sign required to be displayed on a structure that contains a regulated animal must indicate that the regulated animal is dangerous; and
3. that all persons who move a regulated animal must notify the local animal control authority prior to moving the animal.

Section 51 removes the duty of local animal control authorities or local law enforcement to seize a regulated animal under certain conditions. The seizure would be permissive under the change. This section also makes technical changes.

Section 52 makes it a violation to negligently fail to control a regulated animal or keep it properly confined when the result is bodily harm, substantial bodily harm, or great bodily harm to another person.

Section 53 makes the violation of:

1. the duty to register a regulated animal a gross misdemeanor;
2. the confinement and control requirements that causes bodily harm a misdemeanor;
3. the confinement and control requirements that causes substantial bodily harm a gross misdemeanor; and

4. the confinement and control requirements that causes great bodily harm or death a felony.

Section 54 amends the Career Offender Sentencing Law. That law currently authorizes a judge to impose an aggravated durational departure from the guidelines' presumptive sentence up to the statutory maximum sentence for persons convicted of a felony where the fact finder determines that the offender has five or more prior felony convictions and the present offense is committed as part of a pattern of criminal conduct. This section strikes the requirement that the fact finder determine that the present offense was part of a pattern of criminal conduct.

Section 55 amends Minnesota Statutes, section 609.11, by replacing references to court determinations with fact finder determinations. These changes are necessitated by last year's Minnesota Supreme Court decision in State v. Barker. Also strikes language requiring the prosecutor to present evidence related to the defendant's use of a firearm or a dangerous weapon during the commission of an offense.

Section 56 broadens the definition of criminal vehicular homicide and injury crime in two ways:

- ◆ by broadening the prohibition against driving while impaired by controlled substances to include the metabolites of those substances; and
- ◆ by creating a new offense for driving under the influence of a drug – whether that drug in an illegal controlled substance (already prohibited), a prescription drug, or an over-the-counter drug – provided that the person who is impaired by the drug has had a prior qualified impaired driving incident within the preceding ten years.

Section 57 adds a subdivision to the sex offender sentencing statute enacted last year. This new subdivision is a recodification of the Patterned Offender Sentencing Law currently codified at Minnesota Statutes, section 609.108.

Section 58 amends the sex offender sentencing statute enacted last year. Provides that certain determinations must be made by the fact finder (this is consistent with the Blakely decision) and makes other clarifying changes.

Section 59 amends the sex offender sentencing statute enacted last year. Adds language currently contained in the Patterned Offender Sentencing Law requiring the Commissioner of Corrections to develop a plan to pay for the cost of treatment of conditionally released offenders.

Section 60 increases the ten-year felony, five-year felony, gross misdemeanor and misdemeanor theft value thresholds.

Section 61 increases the ten-year felony, five-year felony, gross misdemeanor and misdemeanor value thresholds for issuing bad checks.

Section 62 increases the five-year felony value threshold for criminal damage to property in the first-degree.

Section 63 increases the gross misdemeanor threshold for criminal damage to property in the third-degree.

Section 64, Subdivision 1, defines terms for the purposes of the section.

Subdivision 2 makes it a crime to knowingly procure, sell, or receive the telephone records of another without that person's authorization or by fraudulent, deceptive, or false means. Graduated penalties are as follow:

- ◆ for one telephone record: 1 year / \$3,000 fine;
- ◆ for two to ten telephone records: 2 years / \$20,000 fine; or
- ◆ for more than ten telephone records: 5 years / \$50,000 fine.

Subdivision 3 makes the following persons exempt from this section:

- ◆ peace officers or law enforcement agents in the course of their duties;
- ◆ individuals acting pursuant to a valid court order, warrant, or subpoena;
- ◆ employees of telephone companies acting: 1) as otherwise authorized by law; 2) with the consent of the individual; 3) as may be necessarily incident to the rendition of the service; 4) in cooperation with a governmental entity in the case of an emergency; 5) in cooperation with the National Center for Missing and Exploited Children; or 6) in connection with the sale or transfer of all or part of the company's business or the migration of a customer from one company to another.

Section 65 requires prosecutors to attempt to notify a victim of criminal sexual conduct in the first- to fifth-degree of a decision to not prosecute or dismiss charges. Under current law, prosecutors are required to make a reasonable effort to notify victims of domestic abuse or harassment of a decision to not prosecute or to dismiss charges against a defendant.

Section 66 amends the use of minors in sexual performance crime (Minnesota Statutes, section 617.246) to require a five-year conditional release term for these offenders upon release from prison. Requires a ten-year conditional release term for offenders who have previously been convicted of first through fifth degree criminal sexual conduct, criminal sexual predatory conduct, or possession of pornographic work involving minors (see **section 67**).

Section 67 makes the same changes as in **section 66** to the possession of pornographic work involving minors crime (section 617.247).

Section 68 requires the state fire marshal to reconsider a decision to suspend, revoke, or refuse to renew certification of a fireworks operator upon petition. Requires the fire marshal to render a written decision within 30 days. The decision may be appealed to the district court.

Section 69 forbids county jails from charging a fee for an inmate to participate in a work release program if the inmate is paying the costs of the inmate's maintenance under subdivision 5 of Minnesota Statutes, section 631.425.

Section 70 allows a county to unilaterally withdraw from a regional county jail system. Under current law, a county may withdraw only with the consent of all the other county boards in the system. Reimbursement of the county for capital cost, debt service, or lease rental payments, if any, must still receive consent of all other county boards.

Sections 71 to 74 remove the sunset from the Blakely procedural provisions enacted last year (three of which are being amended by **sections 37 to 39** of this bill). These provisions are set to expire on February 1, 2007.

Section 75, Subdivision 1, requires the Bureau of Criminal Apprehension (BCA), in coordination with federal, state, and local law enforcement, medical examiners, coroners, and others to reduce the state's reporting, data entry, and record keeping backlog relating to missing persons and unidentified bodies.

Subdivision 2 requires the superintendent of the BCA, by February 1, 2007, to report to the Legislature on the effort to reduce the backlog cited in subdivision 1. The report must account for the appropriation in subdivision 3, and make recommendations for changes in state law regarding missing persons and unidentified bodies.

Section 76, Subdivision 1, requires the superintendent, in consultation with the Minnesota Sheriffs Association and the Minnesota Chiefs of Police Association to develop a model policy to address law enforcement efforts and duties regarding missing persons and to provide training to local law enforcement on this model policy.

Subdivision 2 requires the superintendent, by February 1, 2007, to report to the Legislature on the model policy and training efforts.

Section 77 directs the Sentencing Guidelines Commission to rank certain violations of third- and fourth-degree criminal sexual conduct involving psychotherapists and clergy members at specified severity levels in the new sex offender grid. These rankings are higher (i.e., more severe) than those in the commission's proposal. The rankings are, however, consistent with the original intent of the commission. (The commission's report inadvertently ranked the offenses at lower levels than intended.)

Requires the commission to rank violations of third- and fourth-degree criminal sexual conduct involving juveniles (victim and perpetrator) at a specified severity level. (The commission's

report was inadvertently silent on this issue. The commission had intended to rank these violations at the required level.) Specifically adopts all of the commission's other proposed modifications related to sex offenses.

Section 78 requires the commissioner, by January 15, 2007, to report recommendations to the Legislature on how to improve the availability and effectiveness of prison-based and community-based substance treatment programs. These recommendations must include an estimate of the financial cost involved.

Section 79 is an appropriation to the Department of Public Safety.

Section 80 requires the Revisor of Statutes to replace statutory references to the Patterned Offender Sentencing Law with references to **section 57**.

Section 81 repeals Minnesota Statutes, section 152.094, prohibiting the delivery of drug paraphernalia; repeals section 169A.41, subdivision 4, a cross-reference regarding refusal of a preliminary breath test, and it repeals the Patterned Offender Sentencing Law (which is being recodified by this bill in **section 57**) and the mandatory sentencing provisions related to repeat sex offenders in section 609.109.

CT:rer

1.1 Senator moves to amend S.F. No. 2919 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. [4.055] GOVERNOR'S RESIDENCE EMPLOYEES AND
1.4 GOVERNOR APPOINTEE BACKGROUND CHECKS.

1.5 The governor's office may request a check of:

1.6 (1) systems accessible through the criminal justice data communications network,
1.7 including, but not limited to, criminal history, predatory offender registration, warrants,
1.8 and driver license record information from the Department of Public Safety;

1.9 (2) the statewide supervision system maintained by the Department of Corrections;
1.10 and

1.11 (3) national criminal history information maintained by the Federal Bureau of
1.12 Investigation;

1.13 on candidates for positions within the governor's residence or appointment by the
1.14 governor. The candidate shall provide the governor's office with a written authorization
1.15 to conduct the check of these systems. For a check of the national criminal history
1.16 information, the request must also include a set of fingerprints which shall be sent to
1.17 the Bureau of Criminal Apprehension. The bureau has the authority to exchange the
1.18 fingerprints with the FBI to facilitate the national background check. The superintendent
1.19 may recover fees associated with the background checks from the governor's office.

1.20 **EFFECTIVE DATE.** This section is effective July 1, 2006.

1.21 Sec. 2. Minnesota Statutes 2004, section 144.445, subdivision 1, is amended to read:

1.22 Subdivision 1. **Screening of inmates.** (a) All persons detained or confined for 14
1.23 consecutive days or more in facilities operated, licensed, or inspected by the Department
1.24 of Corrections shall be screened for tuberculosis with either a Mantoux test or a chest
1.25 roentgenogram (x-ray) as consistent with screening and follow-up practices recommended
1.26 by the United States Public Health Service or the Department of Health, as determined by
1.27 the commissioner of health. Administration of the Mantoux test or chest roentgenogram
1.28 (x-ray) must take place on or before the 14th day of detention or confinement.

1.29 (b) If an inmate refuses to submit to an annual test as specified in paragraph (a), the
1.30 commissioner of corrections may order the inmate to be tested.

1.31 **EFFECTIVE DATE.** This section is effective July 1, 2006.

1.32 Sec. 3. Minnesota Statutes 2004, section 144.7401, is amended by adding a subdivision
1.33 to read:

2.1 Subd. 8. Peace officer; applicability. An individual licensed as a peace officer
 2.2 under section 626.84, subdivision 1, is considered an emergency medical services person
 2.3 for purposes of sections 144.7401 to 144.7415 regardless of whether the officer is engaged
 2.4 in performing emergency services.

2.5 EFFECTIVE DATE. This section is effective July 1, 2006.

2.6 Sec. 4. Minnesota Statutes 2004, section 152.01, subdivision 18, is amended to read:

2.7 **Subd. 18. Drug paraphernalia.** (a) Except as otherwise provided in paragraph (b),
 2.8 "drug paraphernalia" means all equipment, products, and materials of any kind, except
 2.9 those items used in conjunction with permitted uses of controlled substances under this
 2.10 chapter or the Uniform Controlled Substances Act, which are ~~knowingly or intentionally~~
 2.11 used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting,
 2.12 inhaling, or otherwise introducing into the human body a controlled substance, (3) testing
 2.13 the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect
 2.14 of a controlled substance.

2.15 (b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or
 2.16 sale of hypodermic needles or syringes in accordance with section 151.40, subdivision 2.

2.17 EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes
 2.18 committed on or after that date.

2.19 Sec. 5. Minnesota Statutes 2004, section 152.093, is amended to read:

2.20 **152.093 MANUFACTURE OR DELIVERY SALE OF DRUG**
 2.21 **PARAPHERNALIA PROHIBITED.**

2.22 Subdivision 1. Sales generally. (a) It is unlawful for any person ~~knowingly or~~
 2.23 ~~intentionally to deliver~~ sell drug paraphernalia ~~or knowingly or intentionally to possess or~~
 2.24 ~~manufacture drug paraphernalia for delivery,~~ knowing or having reason to know, that the
 2.25 item will be used primarily to:

2.26 (1) manufacture a controlled substance;

2.27 (2) inject, ingest, inhale, or otherwise introduce into the human body a controlled
 2.28 substance;

2.29 (3) test the strength, effectiveness, or purity of a controlled substance; or

2.30 (4) enhance the effect of a controlled substance.

2.31 (b) Any violation of this section subdivision is a misdemeanor.

2.32 Subd. 2. Sales to minor. Any person 18 years of age or older who violates
 2.33 subdivision 1 by selling drug paraphernalia to a person under 18 years of age who is at
 2.34 least three years younger is guilty of a gross misdemeanor.

3.1 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
3.2 committed on or after that date.

3.3 **Sec. 6. [152.0955] PROHIBITION ON POSSESSION OF CERTAIN ITEMS**
3.4 **ASSOCIATED WITH CONTROLLED SUBSTANCE USE.**

3.5 **Subdivision 1. Definitions.** As used in this section, the following terms have the
3.6 meanings given:

3.7 (1) "bong" means any pipe or smoking device, commonly referred to as a bong or
3.8 water bong, having one tube that attaches to or is part of the pipe or device, that allows for
3.9 a smoked product to be drawn from a reservoir or bowl, through a quantity of water or
3.10 other liquid substance, or through another tube or opening on the pipe or device;

3.11 (2) "dugout" means a storage device, commonly referred to as a dugout, designed
3.12 with separate reservoirs for marijuana and a one-hit pipe;

3.13 (3) "glass pipe" means any pipe or smoking device that is made of glass and that has
3.14 a reservoir capable of holding controlled substances for ingestion;

3.15 (4) "marijuana pipe" means any pipe or smoking device, except for a traditional
3.16 pipe, that is made of solid material, including ivory, onyx, glass, metal, stone, or any other
3.17 material, having a reservoir and a direct channel or a channel filtered by a screen, leading
3.18 to an open end, commonly known as a bowl;

3.19 (5) "one-hit pipe" means any pipe or smoking device that consists of a reservoir on
3.20 one end, with a direct channel or a channel filtered by a screen that leads to the opposite
3.21 end, designed as a linear device, and without a separately attached bowl or reservoir; and

3.22 (6) "traditional pipe" means a smoking device that has a sole use for consumption of
3.23 tobacco, not containing a screen in the bowl section, such as a corncob pipe.

3.24 **Subd. 2. Possession prohibited.** A person who knowingly possesses a bong,
3.25 dugout, glass pipe, marijuana pipe, or one-hit pipe is guilty of a petty misdemeanor.

3.26 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to acts
3.27 committed on or after that date.

3.28 **Sec. 7. Minnesota Statutes 2004, section 152.18, subdivision 1, is amended to read:**

3.29 **Subdivision 1. Deferring prosecution for certain first time drug offenders.** If any
3.30 person who has not previously participated in or completed a diversion program authorized
3.31 under section 401.065 or who has not previously been placed on probation without a
3.32 judgment of guilty and thereafter been discharged from probation under this section is
3.33 found guilty of a violation of section 152.024, subdivision 2, 152.025, subdivision 2, or
3.34 152.027, subdivision 2, 3, or 4, for possession of a controlled substance, after trial or upon
3.35 a plea of guilty, and the court determines that the violation does not qualify as a subsequent

4.1 controlled substance conviction under section 152.01, subdivision 16a, the court ~~may~~ shall,
4.2 without entering a judgment of guilty and with the consent of the person, either (1) defer
4.3 further proceedings and place the person on probation upon such reasonable conditions
4.4 as it may require and for a period, not to exceed the maximum sentence provided for the
4.5 violation. The court or (2) state in writing the reason why a deferral is inappropriate. If the
4.6 court grants a deferral, it may give the person the opportunity to attend and participate
4.7 in an appropriate program of education regarding the nature and effects of alcohol and
4.8 drug abuse as a stipulation of probation. Upon violation of a condition of the probation,
4.9 the court may enter an adjudication of guilt and proceed as otherwise provided. The
4.10 court may, in its discretion, dismiss the proceedings against the person and discharge the
4.11 person from probation before the expiration of the maximum period prescribed for the
4.12 person's probation. If during the period of probation the person does not violate any of the
4.13 conditions of the probation, then upon expiration of the period the court shall discharge the
4.14 person and dismiss the proceedings against that person. Discharge and dismissal under this
4.15 subdivision shall be without court adjudication of guilt, but a not public record of it shall
4.16 be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts
4.17 in determining the merits of subsequent proceedings against the person. The not public
4.18 record may also be opened only upon court order for purposes of a criminal investigation,
4.19 prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections
4.20 authorities, the bureau shall notify the requesting party of the existence of the not public
4.21 record and the right to seek a court order to open it pursuant to this section. The court shall
4.22 forward a record of any discharge and dismissal under this subdivision to the bureau which
4.23 shall make and maintain the not public record of it as provided under this subdivision. The
4.24 discharge or dismissal shall not be deemed a conviction for purposes of disqualifications
4.25 or disabilities imposed by law upon conviction of a crime or for any other purpose.

4.26 For purposes of this subdivision, "not public" has the meaning given in section
4.27 13.02, subdivision 8a.

4.28 **EFFECTIVE DATE. This section is effective July 1, 2006.**

4.29 Sec. 8. Minnesota Statutes 2004, section 169A.03, is amended by adding a subdivision
4.30 to read:

4.31 **Subd. 7a. Drug. "Drug" has the meaning given in section 151.01, subdivision 5.**

4.32 **EFFECTIVE DATE. This section is effective August 1, 2006, and applies to**
4.33 **impaired driving incidents occurring on or after that date.**

4.34 Sec. 9. Minnesota Statutes 2004, section 169A.03, is amended by adding a subdivision
4.35 to read:

5.1 Subd. 11a. Metabolite. A "metabolite" is a substance produced as a result of the
5.2 processing of a drug within the body.

5.3 EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes
5.4 committed on or after that date.

5.5 Sec. 10. Minnesota Statutes 2004, section 169A.20, subdivision 1, is amended to read:

5.6 Subdivision 1. **Driving while impaired crime.** It is a crime for any person to
5.7 drive, operate, or be in physical control of any motor vehicle within this state or on any
5.8 boundary water of this state:

5.9 (1) when the person is under the influence of alcohol;

5.10 (2) when the person is under the influence of a controlled substance;

5.11 (3) when the person is knowingly under the influence of a hazardous substance that
5.12 affects the nervous system, brain, or muscles of the person so as to substantially impair
5.13 the person's ability to drive or operate the motor vehicle;

5.14 (4) when the person is under the influence of a combination of any two or more of
5.15 the elements named in clauses (1), (2), and (3);

5.16 (5) when the person's alcohol concentration at the time, or as measured within
5.17 two hours of the time, of driving, operating, or being in physical control of the motor
5.18 vehicle is 0.08 or more;

5.19 (6) when the vehicle is a commercial motor vehicle and the person's alcohol
5.20 concentration at the time, or as measured within two hours of the time, of driving,
5.21 operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or

5.22 (7) when the person's body contains any amount of a controlled substance listed in
5.23 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols; or

5.24 (8) when the person has one or more qualified prior impaired driving incidents
5.25 within the ten years immediately preceding the current offense and is under the influence
5.26 of any drug, alone or in combination with any substance listed in clauses (1) to (3).

5.27 EFFECTIVE DATE. This section is effective August 1, 2006, and applies to
5.28 impaired driving incidents occurring on or after that date.

5.29 Sec. 11. Minnesota Statutes 2004, section 169A.24, subdivision 1, is amended to read:

5.30 Subdivision 1. **Degree described.** A person who violates section 169A.20 (driving
5.31 while impaired) is guilty of first-degree driving while impaired if the person:

5.32 (1) commits the violation within ten years of the first of three or more qualified
5.33 prior impaired driving incidents; or

5.34 (2) has previously been convicted of a felony under this section; or

6.1 (3) has previously been convicted of a felony under section 609.21, subdivision 1,
6.2 clause (2), (3), (4), (5), or (6); subdivision 2, clause (2), (3), (4), (5), or (6); subdivision 2a,
6.3 clause (2), (3), (4), (5), or (6); subdivision 3, clause (2), (3), (4), (5), or (6); or subdivision
6.4 4, clause (2), (3), (4), (5), or (6).

6.5 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
6.6 committed on or after that date.

6.7 Sec. 12. Minnesota Statutes 2004, section 169A.25, subdivision 1, is amended to read:

6.8 Subdivision 1. **Degree described.** (a) A person who violates section 169A.20,
6.9 subdivision 1 (driving while impaired crime), is guilty of second-degree driving while
6.10 impaired if two or more aggravating factors were present when the violation was
6.11 committed.

6.12 (b) A person who violates section 169A.20, subdivision 2 (refusal to submit to
6.13 chemical test crime), or 169A.20, subdivision 1, clause (8) (driving while impaired by any
6.14 drug crime), is guilty of second-degree driving while impaired if one aggravating factor
6.15 was present when the violation was committed.

6.16 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
6.17 committed on or after that date.

6.18 Sec. 13. Minnesota Statutes 2004, section 169A.26, subdivision 1, is amended to read:

6.19 Subdivision 1. **Degree described.** (a) A person who violates section 169A.20,
6.20 subdivision 1 (driving while impaired crime), is guilty of third-degree driving while
6.21 impaired if one aggravating factor was present when the violation was committed.

6.22 (b) A person who violates section 169A.20, subdivision 2 (refusal to submit to
6.23 chemical test crime), is guilty of third-degree driving while impaired.

6.24 (c) A person who violates section 169A.20, subdivision 1, clause (8) (driving while
6.25 impaired by any drug crime), is guilty of third-degree driving while impaired.

6.26 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
6.27 committed on or after that date.

6.28 Sec. 14. Minnesota Statutes 2004, section 169A.27, subdivision 1, is amended to read:

6.29 Subdivision 1. **Degree described.** A person who violates section 169A.20,
6.30 subdivision 1 (driving while impaired crime), except for section 169A.20, subdivision
6.31 1, clause (8) (driving while impaired by any drug crime), is guilty of fourth-degree
6.32 driving while impaired.

7.1 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
7.2 committed on or after that date.

7.3 Sec. 15. Minnesota Statutes 2004, section 169A.28, subdivision 1, is amended to read:

7.4 **Subdivision 1. Mandatory consecutive sentences.** (a) The court shall impose
7.5 consecutive sentences when it sentences a person for:

7.6 (1) violations of section 169A.20 (driving while impaired) arising out of separate
7.7 courses of conduct;

7.8 (2) a violation of section 169A.20 when the person, at the time of sentencing, is
7.9 on probation for, or serving, an executed sentence for a violation of section 169A.20
7.10 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or
7.11 controlled substance) or 169.129 (aggravated DWI-related violations; penalty), and the
7.12 prior sentence involved a separate course of conduct; or

7.13 (3) a violation of section 169A.20 and another offense arising out of a single course
7.14 of conduct that is listed in subdivision 2, paragraph (e), when the person has five or more
7.15 qualified prior impaired driving incidents within the past ten years.

7.16 (b) The requirement for consecutive sentencing in paragraph (a) does not apply if the
7.17 person is being sentenced to an executed prison term for a violation of section 169A.20
7.18 (driving while impaired) under circumstances described in section 169A.24 (first-degree
7.19 driving while impaired).

7.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.21 Sec. 16. Minnesota Statutes 2004, section 169A.45, subdivision 1, is amended to read:

7.22 **Subdivision 1. Alcohol concentration evidence.** Upon the trial of any prosecution
7.23 arising out of acts alleged to have been committed by any person arrested for violating
7.24 section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head
7.25 Start bus driving), the court may admit evidence of the presence or amount of alcohol in
7.26 the person's blood, breath, or urine as shown by an analysis of those items. In addition,
7.27 in a prosecution for a violation of section 169A.20, the court may admit evidence of
7.28 the presence or amount in the person's blood, breath, or urine, as shown by an analysis
7.29 of those items, of:

7.30 (1) a controlled ~~substances~~ substance or its metabolite;

7.31 (2) a hazardous ~~substances in the person's blood, breath, or urine as shown by an~~
7.32 analysis of those items substance; or

7.33 (3) a drug or its metabolite if the person has one or more qualified prior impaired
7.34 driving incidents within the ten years immediately preceding the current offense.

8.1 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
8.2 impaired driving incidents occurring on or after that date.

8.3 Sec. 17. Minnesota Statutes 2004, section 169A.51, subdivision 1, is amended to read:

8.4 Subdivision 1. **Implied consent; conditions; election of test.** (a) Any person
8.5 who drives, operates, or is in physical control of a motor vehicle within this state or on
8.6 any boundary water of this state consents, subject to the provisions of sections 169A.50
8.7 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to
8.8 a chemical test of that person's blood, breath, or urine for the purpose of determining
8.9 the presence of alcohol, a drug or its metabolite, a controlled substances substance or
8.10 its metabolite, or a hazardous substances substance. The test must be administered at
8.11 the direction of a peace officer.

8.12 (b) The test may be required of a person when an officer has probable cause to believe
8.13 the person was driving, operating, or in physical control of a motor vehicle in violation of
8.14 section 169A.20 (driving while impaired), and one of the following conditions exist:

8.15 (1) the person has been lawfully placed under arrest for violation of section 169A.20
8.16 or an ordinance in conformity with it;

8.17 (2) the person has been involved in a motor vehicle accident or collision resulting in
8.18 property damage, personal injury, or death;

8.19 (3) the person has refused to take the screening test provided for by section 169A.41
8.20 (preliminary screening test); or

8.21 (4) the screening test was administered and indicated an alcohol concentration of
8.22 0.08 or more.

8.23 (c) The test may also be required of a person when an officer has probable cause to
8.24 believe the person was driving, operating, or in physical control of a commercial motor
8.25 vehicle with the presence of any alcohol.

8.26 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
8.27 impaired driving incidents occurring on or after that date.

8.28 Sec. 18. Minnesota Statutes 2004, section 169A.51, subdivision 2, is amended to read:

8.29 Subd. 2. **Implied consent advisory.** At the time a test is requested, the person
8.30 must be informed:

8.31 (1) that Minnesota law requires the person to take a test:

8.32 (i) to determine if the person is under the influence of alcohol, any drug, controlled
8.33 substances, or hazardous substances;

8.34 (ii) to determine the presence of a controlled substance listed in schedule I or II or its
8.35 metabolite, other than marijuana or tetrahydrocannabinols; and

9.1 (iii) if the motor vehicle was a commercial motor vehicle, to determine the presence
9.2 of alcohol;

9.3 (2) that refusal to take a test is a crime;

9.4 (3) if the peace officer has probable cause to believe the person has violated the
9.5 criminal vehicular homicide and injury laws, that a test will be taken with or without
9.6 the person's consent; and

9.7 (4) that the person has the right to consult with an attorney, but that this right is
9.8 limited to the extent that it cannot unreasonably delay administration of the test.

9.9 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
9.10 impaired driving incidents occurring on or after that date.

9.11 Sec. 19. Minnesota Statutes 2004, section 169A.51, subdivision 4, is amended to read:

9.12 Subd. 4. **Requirement of urine or blood test.** Notwithstanding subdivision 3, a
9.13 blood or urine test may be required even after a breath test has been administered if there
9.14 is probable cause to believe that:

9.15 (1) there is impairment by a drug, a controlled substance, or a hazardous substance
9.16 that is not subject to testing by a breath test; or

9.17 (2) a controlled substance listed in schedule I or II or its metabolite, other than
9.18 marijuana or tetrahydrocannabinols, is present in the person's body.

9.19 Action may be taken against a person who refuses to take a blood test under this
9.20 subdivision only if a urine test was offered and action may be taken against a person who
9.21 refuses to take a urine test only if a blood test was offered.

9.22 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
9.23 impaired driving incidents occurring on or after that date.

9.24 Sec. 20. Minnesota Statutes 2004, section 169A.51, subdivision 7, is amended to read:

9.25 Subd. 7. **Requirements for conducting tests; liability.** (a) Only a physician,
9.26 medical technician, emergency medical technician-paramedic, registered nurse, medical
9.27 technologist, medical laboratory technician, or laboratory assistant acting at the request
9.28 of a peace officer may withdraw blood for the purpose of determining the presence of
9.29 alcohol, a drug or its metabolite, a controlled ~~substances~~ substance or its metabolite,
9.30 or a hazardous ~~substances~~ substance. This limitation does not apply to the taking of a
9.31 breath or urine sample.

9.32 (b) The person tested has the right to have someone of the person's own choosing
9.33 administer a chemical test or tests in addition to any administered at the direction of a
9.34 peace officer; provided, that the additional test sample on behalf of the person is obtained
9.35 at the place where the person is in custody, after the test administered at the direction of a

10.1 peace officer, and at no expense to the state. The failure or inability to obtain an additional
 10.2 test or tests by a person does not preclude the admission in evidence of the test taken at
 10.3 the direction of a peace officer unless the additional test was prevented or denied by the
 10.4 peace officer.

10.5 (c) The physician, medical technician, emergency medical technician-paramedic,
 10.6 medical technologist, medical laboratory technician, laboratory assistant, or registered
 10.7 nurse drawing blood at the request of a peace officer for the purpose of determining the
 10.8 concentration of alcohol, a drug or its metabolite, a controlled substances substance or
 10.9 its metabolite, or a hazardous substances substance is in no manner liable in any civil or
 10.10 criminal action except for negligence in drawing the blood. The person administering a
 10.11 breath test must be fully trained in the administration of breath tests pursuant to training
 10.12 given by the commissioner of public safety.

10.13 **EFFECTIVE DATE. This section is effective August 1, 2006, and applies to**
 10.14 **impaired driving incidents occurring on or after that date.**

10.15 Sec. 21. Minnesota Statutes 2004, section 169A.52, subdivision 2, is amended to read:

10.16 Subd. 2. **Reporting test failure.** (a) If a person submits to a test, the results of that
 10.17 test must be reported to the commissioner and to the authority having responsibility for
 10.18 prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if
 10.19 the test results indicate:

- 10.20 (1) an alcohol concentration of 0.08 or more;
 10.21 (2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or
 10.22 in physical control of a commercial motor vehicle at the time of the violation; or
 10.23 (3) the presence of a controlled substance listed in schedule I or II or its metabolite,
 10.24 other than marijuana or tetrahydrocannabinols.

10.25 **(b) If a person submits to a test and the test results indicate the presence of a drug**
 10.26 **or its metabolite or a hazardous substance, the results of that test must be reported to**
 10.27 **the authority having responsibility for prosecution of impaired driving offenses for the**
 10.28 **jurisdiction in which the acts occurred.**

10.29 **EFFECTIVE DATE. This section is effective August 1, 2006, and applies to**
 10.30 **impaired driving incidents occurring on or after that date.**

10.31 Sec. 22. Minnesota Statutes 2005 Supplement, section 169A.52, subdivision 4, is
 10.32 amended to read:

10.33 Subd. 4. **Test failure; license revocation.** (a) Upon certification by the peace
 10.34 officer that there existed probable cause to believe the person had been driving, operating,
 10.35 or in physical control of a motor vehicle in violation of section 169A.20 (driving

11.1 while impaired) and that the person submitted to a test and the test results indicate an
11.2 alcohol concentration of 0.08 or more or the presence of a controlled substance listed in
11.3 schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, then
11.4 the commissioner shall revoke the person's license or permit to drive, or nonresident
11.5 operating privilege:

11.6 (1) for a period of 90 days;

11.7 (2) if the person is under the age of 21 years, for a period of six months;

11.8 (3) for a person with a qualified prior impaired driving incident within the past ten
11.9 years, for a period of 180 days; or

11.10 (4) if the test results indicate an alcohol concentration of 0.20 or more, for twice
11.11 the applicable period in clauses (1) to (3).

11.12 (b) On certification by the peace officer that there existed probable cause to believe
11.13 the person had been driving, operating, or in physical control of a commercial motor
11.14 vehicle with any presence of alcohol and that the person submitted to a test and the
11.15 test results indicated an alcohol concentration of 0.04 or more, the commissioner shall
11.16 disqualify the person from operating a commercial motor vehicle under section 171.165
11.17 (commercial driver's license disqualification).

11.18 (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau
11.19 of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood
11.20 or urine sample, the laboratory may directly certify to the commissioner the test results,
11.21 and the peace officer shall certify to the commissioner that there existed probable cause to
11.22 believe the person had been driving, operating, or in physical control of a motor vehicle
11.23 in violation of section 169A.20 and that the person submitted to a test. Upon receipt
11.24 of both certifications, the commissioner shall undertake the license actions described
11.25 in paragraphs (a) and (b).

11.26 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
11.27 impaired driving incidents occurring on or after that date.

11.28 Sec. 23. Minnesota Statutes 2005 Supplement, section 169A.53, subdivision 3, is
11.29 amended to read:

11.30 Subd. 3. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing
11.31 under this section must be before a district judge in any county in the judicial district
11.32 where the alleged offense occurred. The hearing is to the court and may be conducted at
11.33 the same time and in the same manner as hearings upon pretrial motions in the criminal
11.34 prosecution under section 169A.20 (driving while impaired), if any. The hearing must be
11.35 recorded. The commissioner shall appear and be represented by the attorney general or

12.1 through the prosecuting authority for the jurisdiction involved. The hearing must be held
12.2 at the earliest practicable date, and in any event no later than 60 days following the filing
12.3 of the petition for review. The judicial district administrator shall establish procedures to
12.4 ensure efficient compliance with this subdivision. To accomplish this, the administrator
12.5 may, whenever possible, consolidate and transfer review hearings among the locations
12.6 within the judicial district where terms of district court are held.

12.7 (b) The scope of the hearing is limited to the issues in clauses (1) to (10):

12.8 (1) Did the peace officer have probable cause to believe the person was driving,
12.9 operating, or in physical control of a motor vehicle or commercial motor vehicle in
12.10 violation of section 169A.20 (driving while impaired)?

12.11 (2) Was the person lawfully placed under arrest for violation of section 169A.20?

12.12 (3) Was the person involved in a motor vehicle accident or collision resulting in
12.13 property damage, personal injury, or death?

12.14 (4) Did the person refuse to take a screening test provided for by section 169A.41
12.15 (preliminary screening test)?

12.16 (5) If the screening test was administered, did the test indicate an alcohol
12.17 concentration of 0.08 or more?

12.18 (6) At the time of the request for the test, did the peace officer inform the person
12.19 of the person's rights and the consequences of taking or refusing the test as required by
12.20 section 169A.51, subdivision 2?

12.21 (7) Did the person refuse to permit the test?

12.22 (8) If a test was taken by a person driving, operating, or in physical control of a
12.23 motor vehicle, did the test results indicate at the time of testing:

12.24 (i) an alcohol concentration of 0.08 or more; or

12.25 (ii) the presence of a controlled substance listed in schedule I or II or its metabolite,
12.26 other than marijuana or tetrahydrocannabinols?

12.27 (9) If a test was taken by a person driving, operating, or in physical control of a
12.28 commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or
12.29 more at the time of testing?

12.30 (10) Was the testing method used valid and reliable and were the test results
12.31 accurately evaluated?

12.32 (c) It is an affirmative defense for the petitioner to prove that, at the time of the
12.33 refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

12.34 (d) Certified or otherwise authenticated copies of laboratory or medical personnel
12.35 reports, records, documents, licenses, and certificates are admissible as substantive
12.36 evidence.

13.1 (e) The court shall order that the revocation or disqualification be either rescinded or
13.2 sustained and forward the order to the commissioner. The court shall file its order within
13.3 14 days following the hearing. If the revocation or disqualification is sustained, the court
13.4 shall also forward the person's driver's license or permit to the commissioner for further
13.5 action by the commissioner if the license or permit is not already in the commissioner's
13.6 possession.

13.7 (f) Any party aggrieved by the decision of the reviewing court may appeal the
13.8 decision as provided in the Rules of Appellate Procedure.

13.9 (g) The civil hearing under this section shall not give rise to an estoppel on any
13.10 issues arising from the same set of circumstances in any criminal prosecution.

13.11 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
13.12 impaired driving incidents occurring on or after that date.

13.13 Sec. 24. Minnesota Statutes 2004, section 169A.60, subdivision 2, is amended to read:

13.14 Subd. 2. **Plate impoundment violation; impoundment order.** (a) The
13.15 commissioner shall issue a registration plate impoundment order when:

13.16 (1) a person's driver's license or driving privileges are revoked for a plate
13.17 impoundment violation; or

13.18 (2) a person is arrested for or charged with a plate impoundment violation described
13.19 in subdivision 1, paragraph ~~(c)~~ (d), clause (5).

13.20 (b) The order must require the impoundment of the registration plates of the motor
13.21 vehicle involved in the plate impoundment violation and all motor vehicles owned by,
13.22 registered, or leased in the name of the violator, including motor vehicles registered jointly
13.23 or leased in the name of the violator and another. The commissioner shall not issue an
13.24 impoundment order for the registration plates of a rental vehicle, as defined in section
13.25 168.041, subdivision 10, or a vehicle registered in another state.

13.26 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
13.27 impaired driving incidents occurring on or after that date.

13.28 Sec. 25. Minnesota Statutes 2004, section 169A.60, subdivision 4, is amended to read:

13.29 Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the
13.30 commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a
13.31 plate impoundment violation shall also serve a notice of intent to impound and an order of
13.32 impoundment. On behalf of the commissioner, a peace officer who is arresting a person
13.33 for or charging a person with a plate impoundment violation described in subdivision
13.34 1, paragraph ~~(c)~~ (d), clause (5), shall also serve a notice of intent to impound and an
13.35 order of impoundment. If the vehicle involved in the plate impoundment violation is

14.1 accessible to the officer at the time the impoundment order is issued, the officer shall seize
14.2 the registration plates subject to the impoundment order. The officer shall destroy all
14.3 plates seized or impounded under this section. The officer shall send to the commissioner
14.4 copies of the notice of intent to impound and the order of impoundment and a notice that
14.5 registration plates impounded and seized under this section have been destroyed.

14.6 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to
14.7 impaired driving incidents occurring on or after that date.

14.8 Sec. 26. Minnesota Statutes 2005 Supplement, section 171.18, subdivision 1, is
14.9 amended to read:

14.10 Subdivision 1. **Offenses.** (a) The commissioner may suspend the license of a driver
14.11 without preliminary hearing upon a showing by department records or other sufficient
14.12 evidence that the licensee:

14.13 (1) has committed an offense for which mandatory revocation of license is required
14.14 upon conviction;

14.15 (2) has been convicted by a court for violating a provision of chapter 169 or
14.16 an ordinance regulating traffic, other than a conviction for a petty misdemeanor, and
14.17 department records show that the violation contributed in causing an accident resulting in
14.18 the death or personal injury of another, or serious property damage;

14.19 (3) is an habitually reckless or negligent driver of a motor vehicle;

14.20 (4) is an habitual violator of the traffic laws;

14.21 (5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;

14.22 (6) has permitted an unlawful or fraudulent use of the license;

14.23 (7) has committed an offense in another state that, if committed in this state, would
14.24 be grounds for suspension;

14.25 (8) has committed a violation of section 169.444, subdivision 2, paragraph (a),
14.26 within five years of a prior conviction under that section;

14.27 (9) has committed a violation of section 171.22, except that the commissioner may
14.28 not suspend a person's driver's license based solely on the fact that the person possessed a
14.29 fictitious or fraudulently altered Minnesota identification card;

14.30 (10) has failed to appear in court as provided in section 169.92, subdivision 4;

14.31 (11) has failed to report a medical condition that, if reported, would have resulted in
14.32 cancellation of driving privileges;

14.33 (12) has been found to have committed an offense under section 169A.33; or

14.34 (13) has paid or attempted to pay a fee required under this chapter for a license or
14.35 permit by means of a dishonored check issued to the state or a driver's license agent,

15.1 which must be continued until the registrar determines or is informed by the agent that
15.2 the dishonored check has been paid in full.

15.3 However, an action taken by the commissioner under clause (2) or (5) must conform to
15.4 the recommendation of the court when made in connection with the prosecution of the
15.5 licensee.

15.6 (b) The commissioner may not suspend the driver's license of an individual under
15.7 paragraph (a) who was convicted of a violation of section 171.24, subdivision 1, whose
15.8 license was under suspension at the time solely because of the individual's failure to
15.9 appear in court or failure to pay a fine.

15.10 **EFFECTIVE DATE.** This section is effective July 1, 2006.

15.11 Sec. 27. Minnesota Statutes 2005 Supplement, section 171.29, subdivision 2, is
15.12 amended to read:

15.13 **Subd. 2. Reinstatement fees and surcharges allocated and appropriated.** (a)
15.14 An individual whose driver's license has been revoked as provided in subdivision 1,
15.15 except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's
15.16 license is reinstated.

15.17 (b) A person whose driver's license has been revoked as provided in subdivision 1
15.18 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$40 surcharge
15.19 before the driver's license is reinstated, except as provided in paragraph (f). Beginning
15.20 July 1, 2002, the surcharge is \$145. Beginning July 1, 2003, the surcharge is \$430. The
15.21 \$250 fee is to be credited as follows:

15.22 (1) Twenty percent must be credited to the driver services operating account in the
15.23 special revenue fund as specified in section 299A.705.

15.24 (2) Sixty-seven percent must be credited to the general fund.

15.25 (3) Eight percent must be credited to a separate account to be known as the Bureau
15.26 of Criminal Apprehension account. Money in this account may be appropriated to the
15.27 commissioner of public safety and the appropriated amount must be apportioned 80 percent
15.28 for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

15.29 (4) Five percent must be credited to a separate account to be known as the vehicle
15.30 forfeiture account, which is created in the special revenue fund. The money in the account
15.31 is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

15.32 (c) The revenue from \$50 of each surcharge, or \$12.50 for each year of reinstatement
15.33 under paragraph (f), must be credited to a separate account to be known as the traumatic
15.34 brain injury and spinal cord injury account. The money in the account is annually
15.35 appropriated to the commissioner of health to be used as follows: 83 percent for contracts

16.1 with a qualified community-based organization to provide information, resources,
16.2 and support to assist persons with traumatic brain injury and their families to access
16.3 services, and 17 percent to maintain the traumatic brain injury and spinal cord injury
16.4 registry created in section 144.662. For the purposes of this paragraph, a "qualified
16.5 community-based organization" is a private, not-for-profit organization of consumers of
16.6 traumatic brain injury services and their family members. The organization must be
16.7 registered with the United States Internal Revenue Service under section 501(c)(3) as a
16.8 tax-exempt organization and must have as its purposes:

16.9 (i) the promotion of public, family, survivor, and professional awareness of the
16.10 incidence and consequences of traumatic brain injury;

16.11 (ii) the provision of a network of support for persons with traumatic brain injury,
16.12 their families, and friends;

16.13 (iii) the development and support of programs and services to prevent traumatic
16.14 brain injury;

16.15 (iv) the establishment of education programs for persons with traumatic brain
16.16 injury; and

16.17 (v) the empowerment of persons with traumatic brain injury through participation
16.18 in its governance.

16.19 A patient's name, identifying information, or identifiable medical data must not be
16.20 disclosed to the organization without the informed voluntary written consent of the patient
16.21 or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

16.22 (d) The remainder of the surcharge must be credited to a separate account to be
16.23 known as the remote electronic alcohol-monitoring program account. The commissioner
16.24 shall transfer the balance of this account to the commissioner of finance on a monthly
16.25 basis for deposit in the general fund.

16.26 (e) When these fees are collected by a licensing agent, appointed under section
16.27 171.061, a handling charge is imposed in the amount specified under section 171.061,
16.28 subdivision 4. The reinstatement fees and surcharge must be deposited in an approved
16.29 depository as directed under section 171.061, subdivision 4.

16.30 (f) A person whose driver's license has been revoked as provided in subdivision 1
16.31 under section 169A.52, 169A.54, or 609.21, may choose to pay 25 percent of the total
16.32 amount of the surcharge and fee required under paragraph (b) to reinstate the person's
16.33 driver's license, provided the person meets all other requirements of reinstatement. If a
16.34 person chooses to pay 25 percent of the total, the driver's license must expire after one
16.35 year. The person must pay an additional 25 percent of the total to extend the license for
16.36 an additional year for each of the next two years, provided the person is otherwise still

17.1 eligible for the license. After a final 25 percent payment of the surcharge and fee, the
17.2 license may be renewed on a standard schedule, as measured from the date of original
17.3 license issuance. A handling charge may be imposed for each installment payment.

17.4 **EFFECTIVE DATE. This section is effective July 1, 2006.**

17.5 Sec. 28. Minnesota Statutes 2004, section 241.016, subdivision 1, is amended to read:

17.6 Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a
17.7 performance report to the chairs and ranking minority members of the senate and house
17.8 committees and divisions having jurisdiction over criminal justice funding by January
17.9 15, 2005, and every other year thereafter. The issuance and content of the report must
17.10 include the following:

17.11 (1) department strategic mission, goals, and objectives;

17.12 (2) the department-wide per diem, adult facility-specific per diems, and an average
17.13 per diem, reported in a standard calculated method as outlined in the departmental policies
17.14 and procedures; ~~and~~

17.15 (3) department annual statistics as outlined in the departmental policies and
17.16 procedures; and

17.17 (4) information about prison-based mental health programs, including, but not
17.18 limited to, the availability of these programs, participation rates, and completion rates.

17.19 (b) The department shall maintain recidivism rates for adult facilities on an annual
17.20 basis. In addition, each year the department shall, on an alternating basis, complete a
17.21 recidivism analysis of adult facilities, juvenile services, and the community services
17.22 divisions and include a three-year recidivism analysis in the report described in paragraph
17.23 (a). When appropriate, the recidivism analysis must include education programs,
17.24 vocational programs, treatment programs, including mental health programs, industry,
17.25 and employment. In addition, when reporting recidivism for the department's adult and
17.26 juvenile facilities, the department shall report on the extent to which offenders it has
17.27 assessed as chemically dependent commit new offenses, with separate recidivism rates
17.28 reported for persons completing and not completing the department's treatment programs.

17.29 **EFFECTIVE DATE. This section is effective July 1, 2006.**

17.30 Sec. 29. **[241.0222] CONTRACTS WITH NEWLY CONSTRUCTED JAIL**
17.31 **FACILITIES THAT PROVIDE ACCESS TO CHEMICAL DEPENDENCY**
17.32 **TREATMENT PROGRAMS.**

17.33 Notwithstanding section 16C.05, subdivision 2, the commissioner may enter into
17.34 contracts, up to five years in duration, with a county or group of counties to house inmates
17.35 committed to the custody of the commissioner in newly constructed county or regional jail

18.1 facilities that provide inmates access to chemical dependency treatment programs licensed
18.2 by the Department of Human Services. A contract entered into under this section may
18.3 contain an option to renew the contract for a term of up to five years.

18.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.5 Sec. 30. Minnesota Statutes 2005 Supplement, section 241.06, is amended by adding a
18.6 subdivision to read:

18.7 **Subd. 3. Substance abuse information provided to supervising corrections**
18.8 **agency.** When an offender is being released from prison, the commissioner shall provide
18.9 to the corrections agency that will supervise the offender prison records relating to that
18.10 offender's prison-based substance abuse assessments, treatment, and any other substance
18.11 abuse-related services provided to the offender. If the offender did not participate in
18.12 the prison-based substance abuse program to which the offender was directed, the
18.13 commissioner shall provide the supervising agency with an explanation of the reasons.

18.14 **EFFECTIVE DATE.** This section is effective July 1, 2006.

18.15 Sec. 31. **[241.40] PERIODIC REVIEWS OF SUBSTANCE ABUSE**
18.16 **ASSESSMENT PROCESS.**

18.17 By January 15, 2007, and at least once every three years thereafter, the commissioner
18.18 shall ensure that an outside entity conducts an independent review of the department's
18.19 prison-based substance abuse assessment activities.

18.20 **EFFECTIVE DATE.** This section is effective July 1, 2006.

18.21 Sec. 32. **[241.415] RELEASE PLANS; SUBSTANCE ABUSE.**

18.22 The commissioner shall cooperate with community-based corrections agencies to
18.23 determine how best to address the substance abuse treatment needs of offenders who are
18.24 being released from prison. The commissioner shall ensure that an offender's prison
18.25 release plan adequately addresses the offender's needs for substance abuse assessment,
18.26 treatment, or other services following release, within the limits of available resources.

18.27 **EFFECTIVE DATE.** This section is effective July 1, 2006.

18.28 Sec. 33. **[241.416] SUBSTANCE ABUSE PROGRAMS; RECORD KEEPING.**

18.29 The commissioner shall keep adequate records regarding inmate participation in
18.30 substance abuse treatment programs. For inmates who did not comply with directives to
18.31 participate in substance abuse treatment programs, these records must include the reasons
18.32 why the inmate did not do so.

18.33 **EFFECTIVE DATE.** This section is effective July 1, 2006.

19.1 **Sec. 34. [241.75] INMATE HEALTH CARE DECISIONS; MEDICAL**
 19.2 **DIRECTOR, DEPARTMENT OF CORRECTIONS; AGENT.**

19.3 **Subdivision 1. Definitions. The definitions in this subdivision apply to this section.**

19.4 **(a) "Commissioner" means the commissioner of corrections.**

19.5 **(b) "Decision-making capacity" means the ability to understand the significant**
 19.6 **benefits, risks, and alternatives to proposed health care and to make and communicate a**
 19.7 **health care decision.**

19.8 **(c) "Health care agent" or "agent" means the Department of Corrections medical**
 19.9 **director who is a licensed physician employed by the commissioner of corrections to**
 19.10 **provide services to inmates.**

19.11 **(d) "Health care directive" means an instrument appointing one or more health care**
 19.12 **agents to make health care decisions for the inmate.**

19.13 **(e) "Health care" means any care, treatment, service, or procedure to maintain,**
 19.14 **diagnose, or otherwise affect a person's physical or mental condition.**

19.15 **(f) "Health care decision" means the consent, refusal of consent, or withdrawal**
 19.16 **of consent to health care.**

19.17 **(g) "Principal" means the Department of Corrections medical director.**

19.18 **Subd. 2. Health care agent; decisions. (a) The commissioner shall appoint**
 19.19 **the Department of Corrections medical director as the health care agent for inmates**
 19.20 **incarcerated in correctional facilities in the absence of a documented health care decision**
 19.21 **maker designated by the offender. If an inmate lacks decision-making capacity as**
 19.22 **determined by a medical doctor, or the emergency contact person is not available or has**
 19.23 **not been appointed as a health care agent under chapter 145C, then the Department of**
 19.24 **Corrections medical director has the authority as principal to make health care decisions**
 19.25 **for the inmate.**

19.26 **EFFECTIVE DATE. This section is effective July 1, 2006.**

19.27 **Sec. 35. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 10,**
 19.28 **is amended to read:**

19.29 **Subd. 10. Notice. Upon receiving an offender's petition for release under**
 19.30 **subdivision 2, the commissioner shall notify the prosecuting authority responsible for the**
 19.31 **offender's conviction and the sentencing court. The commissioner shall give the authority**
 19.32 **and court a reasonable opportunity to comment on the offender's potential release. If the**
 19.33 **authority or court elects to comment, the comments must specify the reasons for the**
 19.34 **authority or court's position.** This subdivision applies only to offenders sentenced before
 19.35 **July 1, 2005.**

20.1 **EFFECTIVE DATE. This section is effective July 1, 2006.**

20.2 Sec. 36. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 11,
20.3 is amended to read:

20.4 Subd. 11. **Sunset.** This section expires July 1, ~~2007~~ 2009.

20.5 **EFFECTIVE DATE. This section is effective July 1, 2006.**

20.6 Sec. 37. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 5, is
20.7 amended to read:

20.8 Subd. 5. **Procedures in cases where state intends to seek an aggravated**
20.9 **departure.** (a) When the prosecutor provides reasonable notice under subdivision 4, the
20.10 district court shall allow the state to prove beyond a reasonable doubt to a jury of 12
20.11 members the factors in support of the state's request for an aggravated departure from
20.12 the Sentencing Guidelines or the state's request for an aggravated sentence under any
20.13 sentencing enhancement statute or the state's request for a mandatory minimum under
20.14 section 609.11 as provided in paragraph (b) or (c).

20.15 (b) The district court shall allow a unitary trial and final argument to a jury regarding
20.16 both evidence in support of the elements of the offense and evidence in support of
20.17 aggravating factors when the evidence in support of the aggravating factors:

20.18 (1) would be admissible as part of the trial on the elements of the offense; or

20.19 (2) would not result in unfair prejudice to the defendant.

20.20 The existence of each aggravating factor shall be determined by use of a special
20.21 verdict form.

20.22 Upon the request of the prosecutor, the court shall allow bifurcated argument and
20.23 jury deliberations.

20.24 (c) The district court shall bifurcate the proceedings, or impanel a resentencing jury,
20.25 to allow for the production of evidence, argument, and deliberations on the existence of
20.26 factors in support of an aggravated departure after the return of a guilty verdict when the
20.27 evidence in support of an aggravated departure:

20.28 (1) includes evidence that is otherwise inadmissible at a trial on the elements of
20.29 the offense; and

20.30 (2) would result in unfair prejudice to the defendant.

20.31 **EFFECTIVE DATE. This section is effective the day following final enactment**
20.32 **and applies to sentencing hearings, resentencing hearings, and sentencing departures**
20.33 **sought on or after that date.**

21.1 Sec. 38. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 6, is
21.2 amended to read:

21.3 **Subd. 6. Defendants to present evidence and argument.** In either a unitary or
21.4 bifurcated trial under subdivision 5, a defendant shall be allowed to present evidence
21.5 and argument to the jury or factfinder regarding whether facts exist that would justify
21.6 an aggravated ~~durational~~ departure or an aggravated sentence under any sentencing
21.7 enhancement statute or a mandatory minimum sentence under section 609.11. A defendant
21.8 is not allowed to present evidence or argument to the jury or factfinder regarding facts in
21.9 support of a mitigated departure during the trial, but may present evidence and argument
21.10 in support of a mitigated departure to the judge as factfinder during a sentencing hearing.

21.11 **EFFECTIVE DATE.** This section is effective the day following final enactment
21.12 and applies to sentencing hearings, resentencing hearings, and sentencing departures
21.13 sought on or after that date.

21.14 Sec. 39. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 7, is
21.15 amended to read:

21.16 **Subd. 7. Waiver of jury determination.** The defendant may waive the right to a
21.17 jury determination of whether facts exist that would justify an aggravated sentence. Upon
21.18 receipt of a waiver of a jury trial on this issue, the district court shall determine beyond
21.19 a reasonable doubt whether the factors in support of the state's motion for aggravated
21.20 departure or an aggravated sentence under any sentencing enhancement statute or a
21.21 mandatory minimum sentence under section 609.11 exist.

21.22 **EFFECTIVE DATE.** This section is effective the day following final enactment
21.23 and applies to sentencing hearings, resentencing hearings, and sentencing departures
21.24 sought on or after that date.

21.25 Sec. 40. **[299A.79] TOLL-FREE HOTLINE FOR TRAFFICKING VICTIMS.**

21.26 **(a) As used in this section, "trafficking victim" has the meaning given in section**
21.27 **299A.78, subdivision 1.**

21.28 **(b) The commissioner of public safety shall contract with a nonprofit organization**
21.29 **that provides legal services to domestic and international trafficking victims to maintain a**
21.30 **toll-free telephone hotline for trafficking victims.**

21.31 **The hotline must be in place by January 1, 2007, and must be operated 24 hours**
21.32 **a day, 365 days a year. The hotline must offer language interpreters for languages**
21.33 **commonly spoken in Minnesota, including, but not limited to, Spanish, Vietnamese,**
21.34 **Hmong, and Somali. At a minimum, the hotline must screen trafficking victims, both**

22.1 domestic and international, and provide appropriate referrals to attorneys and victims'
22.2 services organizations.

22.3 EFFECTIVE DATE. This section is effective July 1, 2006.

22.4 Sec. 41. [299A.81] MENTORING PROGRAMS; CRIMINAL BACKGROUND
22.5 CHECKS.

22.6 Subdivision 1. Definition. For purposes of this section, "mentoring" means a
22.7 commitment between an adult and youth focused on developing the character and
22.8 capabilities of the young person and involving regular, personal, and/or face-to-face
22.9 meetings.

22.10 Subd. 2. Background check requests. To screen for safety risks, an organization
22.11 providing mentor services may request the Bureau of Criminal Apprehension to perform
22.12 a criminal background check on persons volunteering to become a mentor under the
22.13 organization's supervision.

22.14 Subd. 3. Background checks. The superintendent of the Bureau of Criminal
22.15 Apprehension shall provide up to 15,000 background checks upon request for background
22.16 checks by organizations specified in subdivision 2.

22.17 EFFECTIVE DATE. This section is effective July 1, 2006.

22.18 Sec. 42. [299A.85] REPORTING OF UNIDENTIFIED PERSONS/HUMAN
22.19 REMAINS.

22.20 Subdivision 1. Handling of death scene investigations. (a) The Department of
22.21 Public Safety shall provide information to local law enforcement agencies about best
22.22 practices for handling death scene investigations.

22.23 (b) The Department of Public Safety shall identify any publications or training
22.24 opportunities that may be available to local law enforcement agencies or law enforcement
22.25 officers concerning the handling of death scene investigations.

22.26 Subd. 2. Law enforcement reports. (a) After performing any death scene
22.27 investigation considered appropriate under the circumstances, the official with custody of
22.28 the human remains shall ensure that the human remains are delivered to the appropriate
22.29 medical examiner.

22.30 (b) A person with custody of human remains that are not identified within 24 hours
22.31 of discovery shall promptly notify the Department of Public Safety of the location of
22.32 those remains.

23.1 (c) A person with custody of remains who cannot determine whether or not the
23.2 remains found are human shall notify the Department of Public Safety of the existence of
23.3 possible human remains.

23.4 **EFFECTIVE DATE.** This section is effective August 1, 2006.

23.5 Sec. 43. Minnesota Statutes 2005 Supplement, section 299C.105, subdivision 3,
23.6 is amended to read:

23.7 Subd. 3. **Bureau duty.** (a) ~~The bureau shall destroy the biological specimen and~~
23.8 ~~return all records to a person who submitted a biological specimen under subdivision 1~~
23.9 ~~but who was found not guilty of a felony.~~ Upon the request of a person who submitted a
23.10 biological specimen under subdivision 1 but where was either found not guilty of a felony
23.11 or the charge against the person was later dismissed, the bureau shall destroy the person's
23.12 biological specimen and return all records to the individual.

23.13 (b) If the bureau destroys a biological specimen under paragraph (a), the bureau shall
23.14 also remove the person's information from the bureau's combined DNA index system and
23.15 return all related records and all copies or duplicates of them.

23.16 **EFFECTIVE DATE.** This section is effective July 1, 2006.

23.17 Sec. 44. Minnesota Statutes 2005 Supplement, section 299C.40, subdivision 1, is
23.18 amended to read:

23.19 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
23.20 section.

23.21 (b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located
23.22 in the Department of Public Safety and managed by the Bureau of Criminal Apprehension,
23.23 Criminal Justice Information Systems Section. A reference in this section to "CIBRS"
23.24 includes the Bureau of Criminal Apprehension.

23.25 (c) "Law enforcement agency" means a Minnesota municipal police department,
23.26 the Metropolitan Transit Police, the Metropolitan Airports Police, the University of
23.27 Minnesota Police Department, the Department of Corrections' Fugitive Apprehension
23.28 Unit, a Minnesota county sheriff's department, the Bureau of Criminal Apprehension, or
23.29 the Minnesota State Patrol.

23.30 **EFFECTIVE DATE.** This section is effective July 1, 2006.

23.31 Sec. 45. Minnesota Statutes 2005 Supplement, section 299C.405, is amended to read:

23.32 **299C.405 SUBSCRIPTION SERVICE.**

24.1 (a) For the purposes of this section "subscription service" means a process by which
24.2 law enforcement agency personnel may obtain ongoing, automatic electronic notice of any
24.3 contacts an individual has with any criminal justice agency.

24.4 (b) The Department of Public Safety must not establish a subscription service
24.5 without prior legislative authorization; except that, the Bureau of Criminal Apprehension
24.6 may employ under section 299C.40 a secure subscription service designed to promote
24.7 and enhance officer safety during tactical operations by and between federal, state, and
24.8 local law enforcement agencies by notifying law enforcement agencies of conflicts where
24.9 multiple law enforcement operations may be occurring on the same subject or vehicle or on
24.10 or near the same location. The notification may include warrant executions, surveillance
24.11 activities, SWAT activities, undercover operations, and other investigative operations.

24.12 EFFECTIVE DATE. This section is effective July 1, 2006.

24.13 Sec. 46. [299C.565] MISSING PERSON REPORT.

24.14 The local law enforcement agency having jurisdiction over the location where a
24.15 person has been missing or was last seen has the responsibility to take a missing person
24.16 report from an interested party. If this location cannot be clearly and easily established,
24.17 the local law enforcement agency having jurisdiction over the last verified location where
24.18 the missing person last resided has the responsibility to take the report.

24.19 EFFECTIVE DATE. This section is effective August 1, 2006.

24.20 Sec. 47. Minnesota Statutes 2005 Supplement, section 299C.65, subdivision 2, is
24.21 amended to read:

24.22 Subd. 2. **Task force.** The policy group shall appoint a task force to assist them
24.23 in their duties. The task force shall monitor, review, and report to the policy group on
24.24 CrimNet-related projects and provide oversight to ongoing operations as directed by the
24.25 policy group. The task force shall consist of the following members:

24.26 (1) two sheriffs recommended by the Minnesota Sheriffs Association;

24.27 (2) two police chiefs recommended by the Minnesota Chiefs of Police Association;

24.28 (3) two county attorneys recommended by the Minnesota County Attorneys
24.29 Association;

24.30 (4) two city attorneys recommended by the Minnesota League of Cities;

24.31 (5) two public defenders appointed by the Board of Public Defense;

24.32 (6) two district judges appointed by the Conference of Chief Judges, one of whom is
24.33 currently assigned to the juvenile court;

24.34 (7) two community corrections administrators recommended by the Minnesota
24.35 Association of Counties, one of whom represents a community corrections act county;

- 25.1 (8) two probation officers;
- 25.2 (9) four public members, one of whom has been a victim of crime, and two who
- 25.3 are representatives of the private business community who have expertise in integrated
- 25.4 information systems and who for the purpose of meetings of the full task force may be
- 25.5 compensated pursuant to section 15.059;
- 25.6 (10) two court administrators;
- 25.7 (11) one member of the house of representatives appointed by the speaker of the
- 25.8 house;
- 25.9 (12) one member of the senate appointed by the majority leader;
- 25.10 (13) the attorney general or a designee;
- 25.11 (14) two individuals recommended by the Minnesota League of Cities, one of
- 25.12 whom works or resides in greater Minnesota and one of whom works or resides in the
- 25.13 seven-county metropolitan area;
- 25.14 (15) two individuals recommended by the Minnesota Association of Counties, one
- 25.15 of whom works or resides in greater Minnesota and one of whom works or resides in the
- 25.16 seven-county metropolitan area;
- 25.17 (16) the director of the Sentencing Guidelines Commission;
- 25.18 (17) one member appointed by the state chief information officer;
- 25.19 ~~(17)~~ (18) one member appointed by the commissioner of public safety;
- 25.20 ~~(18)~~ (19) one member appointed by the commissioner of corrections;
- 25.21 ~~(19)~~ (20) one member appointed by the commissioner of administration; and
- 25.22 ~~(20)~~ (21) one member appointed by the chief justice of the Supreme Court.
- 25.23 In making these appointments, the appointing authority shall select members with
- 25.24 expertise in integrated data systems or best practices.

25.25 The commissioner of public safety may appoint additional, nonvoting members to

25.26 the task force as necessary from time to time.

25.27 **EFFECTIVE DATE.** This section is effective July 1, 2006.

25.28 Sec. 48. Minnesota Statutes 2004, section 299F.011, subdivision 5, is amended to read:

25.29 Subd. 5. **Appeal policy; variance.** Upon application, the state fire marshal may

25.30 grant variances from the minimum requirements specified in the code if there is substantial

25.31 compliance with the provisions of the code, the safety of the public and occupants of

25.32 such building will not be jeopardized, and undue hardship will result to the applicant

25.33 unless such variance is granted. No appeal to the state fire marshal for a variance from

25.34 orders issued by a local fire official from the Uniform Fire Code shall be accepted until

25.35 the applicant has first made application to the local governing body and the local unit has

26.1 acted on the application. The state fire marshal shall consider ~~the decision~~ any decisions
26.2 or recommendations of the local governing body. Any person aggrieved by a decision
26.3 made by the fire marshal under this subdivision may proceed before the fire marshal as
26.4 with a contested case in accordance with the Administrative Procedure Act.

26.5 **EFFECTIVE DATE.** This section is effective July 1, 2006.

26.6 Sec. 49. Minnesota Statutes 2004, section 346.155, subdivision 1, is amended to read:

26.7 **Subdivision 1. Definitions.** (a) The definitions in this subdivision apply to this
26.8 section.

26.9 (b) "Person" means any natural person, firm, partnership, corporation, or association,
26.10 however organized.

26.11 (c) "Wildlife sanctuary" means a 501(c)(3) nonprofit organization that:

26.12 (1) operates a place of refuge where abused, neglected, unwanted, impounded,
26.13 abandoned, orphaned, or displaced wildlife are provided care for their lifetime;

26.14 (2) does not conduct any commercial activity with respect to any animal of which
26.15 the organization is an owner; and

26.16 (3) does not buy, sell, trade, auction, lease, loan, or breed any animal of which the
26.17 organization is an owner, except as an integral part of the species survival plan of the
26.18 American Zoo and Aquarium Association.

26.19 (d) "Possess" means to own, care for, have custody of, or control.

26.20 (e) "Regulated animal" means:

26.21 (1) all members of the Felidae family including, but not limited to, lions, tigers,
26.22 cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats
26.23 recognized as a domestic breed, registered as a domestic breed, and shown as a domestic
26.24 breed by a national or international multibreed cat registry association;

26.25 (2) bears; and

26.26 (3) all nonhuman primates, including, but not limited to, lemurs, monkeys,
26.27 chimpanzees, gorillas, orangutans, marmosets, lorises, and tamarins.

26.28 Regulated animal includes any hybrid or cross between an animal listed in clause
26.29 (1), (2), or (3) and a domestic animal and offspring from all subsequent generations of
26.30 those crosses or hybrids.

26.31 (f) "Local animal control authority" means an agency of the state, county,
26.32 municipality, or other governmental subdivision of the state that is responsible for animal
26.33 control operations in its jurisdiction.

26.34 (g) "Bodily harm," "substantial bodily harm," and "great bodily harm" have the
26.35 meanings given them in section 609.02.

27.1 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
27.2 **committed on or after that date.**

27.3 Sec. 50. Minnesota Statutes 2004, section 346.155, subdivision 4, is amended to read:

27.4 Subd. 4. **Requirements.** (a) A person who possesses a regulated animal must
27.5 maintain health and ownership records on each animal and must maintain the records
27.6 for the life of the animal. If possession of the regulated animal is transferred to another
27.7 person, a copy of the health and ownership records must accompany the animal.

27.8 (b) A person who possesses a regulated animal must maintain an ongoing program
27.9 of veterinary care which includes a veterinary visit to the premises at least annually.

27.10 (c) A person who possesses a regulated animal must notify the local animal control
27.11 authority in writing within ten days of a change in address or location where the regulated
27.12 animal is kept. The notification of change in address or location form must be prepared by
27.13 the Minnesota Animal Control Association and approved by the Board of Animal Health.

27.14 (d) A person with a United States Department of Agriculture license for regulated
27.15 animals shall forward a copy of the United States Department of Agriculture inspection
27.16 report to the local animal control authority within 30 days of receipt of the inspection
27.17 report.

27.18 (e) A person who possesses a regulated animal shall prominently display a sign on
27.19 the structure where the animal is housed indicating that a dangerous regulated animal
27.20 is on the premises.

27.21 (f) A person who possesses a regulated animal must notify, as soon as practicable,
27.22 local law enforcement officials of any escape of a regulated animal. The person who
27.23 possesses the regulated animal is liable for any costs incurred by any person, city, county,
27.24 or state agency resulting from the escape of a regulated animal unless the escape is due to
27.25 a criminal act by another person or a natural event.

27.26 (g) A person who possesses a regulated animal must maintain a written recovery
27.27 plan in the event of the escape of a regulated animal. The person must maintain live traps,
27.28 or other equipment necessary to assist in the recovery of the regulated animal.

27.29 (h) ~~If requested by the local animal control authority,~~ A person may not move a
27.30 regulated animal from its location unless the person notifies the local animal control
27.31 authority prior to moving the animal. The notification must include the date and the
27.32 location where the animal is to be moved. This paragraph does not apply to a regulated
27.33 animal transported to a licensed veterinarian.

27.34 (i) If a person who possesses a regulated animal can no longer care for the animal,
27.35 the person shall take steps to find long-term placement for the regulated animal.

28.1 **EFFECTIVE DATE.** This section is effective August 1, 2006.

28.2 Sec. 51. Minnesota Statutes 2004, section 346.155, subdivision 5, is amended to read:

28.3 Subd. 5. **Seizure.** (a) The local animal control authority, upon issuance of a
28.4 notice of inspection, must be granted access at reasonable times to sites where the local
28.5 animal control authority has reason to believe a violation of this chapter is occurring or
28.6 has occurred.

28.7 (b) If a person who possesses a regulated animal is not in compliance with the
28.8 requirements of this section, the local animal control authority shall take possession of the
28.9 animal for custody and care, provided that the procedures in this subdivision are followed.

28.10 (c) Upon request of a person possessing a regulated animal, the local animal control
28.11 authority may allow the animal to remain in the physical custody of the owner for 30 days,
28.12 during which time the owner shall take all necessary actions to come in compliance with
28.13 this section. During the 30-day period, the local animal control authority may inspect, at
28.14 any reasonable time, the premises where the animal is kept.

28.15 (d) If a person who possesses a regulated animal is not in compliance with this
28.16 section following the 30-day period described in paragraph (c), the local animal control
28.17 authority shall seize the animal and place it in a holding facility that is appropriate for the
28.18 species for up to ten days.

28.19 (e) The authority taking custody of an animal under this section shall provide a
28.20 notice of the seizure by delivering or mailing it to the owner, by posting a copy of it at
28.21 the place where the animal is taken into custody, or by delivering it to a person residing
28.22 on the property. The notice must include:

28.23 (1) a description of the animal seized; the authority for and purpose of the seizure;
28.24 the time, place, and circumstances under which the animal was seized; and a contact
28.25 person and telephone number;

28.26 (2) a statement that a person from whom a regulated animal was seized may post
28.27 security to prevent disposition of the animal and may request a hearing concerning the
28.28 seizure and that failure to do so within five business days of the date of the notice will
28.29 result in disposition of the animal;

28.30 (3) a statement that actual costs of the care, keeping, and disposal of the regulated
28.31 animal are the responsibility of the person from whom the animal was seized, except to
28.32 the extent that a court or hearing officer finds that the seizure or impoundment was not
28.33 substantially justified by law; and

28.34 (4) a form that can be used by a person from whom a regulated animal was seized
28.35 for requesting a hearing under this subdivision.

29.1 (e) (f) If a person from whom the regulated animal was seized makes a request
29.2 within five business days of the seizure, a hearing must be held within five business days
29.3 of the request to determine the validity of the seizure and disposition of the animal. The
29.4 judge or hearing officer may authorize the return of the animal to the person from whom
29.5 the animal was seized if the judge or hearing officer finds:

29.6 (1) that the person can and will provide the care required by law for the regulated
29.7 animal; and

29.8 (2) the regulated animal is physically fit.

29.9 (f) (g) If a judge or hearing officer orders a permanent disposition of the regulated
29.10 animal, the local animal control authority may take steps to find long-term placement for
29.11 the animal with a wildlife sanctuary, persons authorized by the Department of Natural
29.12 Resources, or an appropriate United States Department of Agriculture licensed facility.

29.13 (g) (h) A person from whom a regulated animal is seized is liable for all actual costs
29.14 of care, keeping, and disposal of the animal, except to the extent that a court or hearing
29.15 officer finds that the seizure was not substantially justified by law. The costs must be paid
29.16 in full or a mutually satisfactory arrangement for payment must be made between the
29.17 local animal control authority and the person claiming an interest in the animal before
29.18 return of the animal to the person.

29.19 (h) (i) A person from whom a regulated animal has been seized under this
29.20 subdivision may prevent disposition of the animal by posting security in the amount
29.21 sufficient to provide for the actual costs of care and keeping of the animal. The security
29.22 must be posted within five business days of the seizure, inclusive of the day of the seizure.

29.23 (i) (j) If circumstances exist threatening the life of a person or the life of any animal,
29.24 local law enforcement or the local animal control authority ~~shall~~ may seize a regulated
29.25 animal without an opportunity for hearing or court order, or destroy the animal.

29.26 **EFFECTIVE DATE.** This section is effective August 1, 2006.

29.27 Sec. 52. Minnesota Statutes 2004, section 346.155, is amended by adding a subdivision
29.28 to read:

29.29 **Subd. 9a. Confinement and control.** A person violates this subdivision who
29.30 possesses a regulated animal and negligently fails to control the animal or keep it properly
29.31 confined and as a result the animal causes bodily harm, substantial bodily harm, or great
29.32 bodily harm to another person.

29.33 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
29.34 committed on or after that date.

29.35 Sec. 53. Minnesota Statutes 2004, section 346.155, subdivision 10, is amended to read:

30.1 Subd. 10. **Penalty.** (a) A person who knowingly violates subdivision 2, 3, paragraph
 30.2 (b) or (c), or 4 is guilty of a misdemeanor.

30.3 (b) A person who knowingly violates subdivision 3, paragraph (a), is guilty of a
 30.4 gross misdemeanor.

30.5 (c) A person who violates subdivision 9a, resulting in bodily harm is guilty of a
 30.6 misdemeanor and may be sentenced to imprisonment for not more than 90 days or to
 30.7 payment of a fine of not more than \$1,000, or both.

30.8 (d) A person who violates subdivision 9a, resulting in substantial bodily harm is
 30.9 guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than
 30.10 one year or to payment of a fine of not more than \$3,000, or both.

30.11 (e) A person who violates subdivision 9a, resulting in great bodily harm or death
 30.12 is guilty of a felony and may be sentenced to imprisonment for not more than two years
 30.13 or to payment of a fine of not more than \$5,000, or both, unless a greater penalty is
 30.14 provided elsewhere.

30.15 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
 30.16 committed on or after that date.

30.17 Sec. 54. Minnesota Statutes 2005 Supplement, section 609.1095, subdivision 4,
 30.18 is amended to read:

30.19 Subd. 4. **Increased sentence for offender who commits a sixth felony.** Whenever
 30.20 a person is convicted of a felony, and the judge is imposing an executed sentence based
 30.21 on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose
 30.22 an aggravated durational departure from the presumptive sentence up to the statutory
 30.23 maximum sentence if the factfinder determines that the offender has five or more prior
 30.24 felony convictions ~~and that the present offense is a felony that was committed as part~~
 30.25 ~~of a pattern of criminal conduct.~~

30.26 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
 30.27 committed on or after that date.

30.28 Sec. 55. Minnesota Statutes 2004, section 609.11, subdivision 7, is amended to read:

30.29 Subd. 7. **Prosecutor shall establish.** ~~Whenever reasonable grounds exist to believe~~
 30.30 ~~that the defendant or an accomplice used a firearm or other dangerous weapon or had in~~
 30.31 ~~possession a firearm, at the time of commission of an offense listed in subdivision 9,~~
 30.32 ~~the prosecutor shall, at the time of trial or at the plea of guilty, present on the record~~
 30.33 ~~all evidence tending to establish that fact unless it is otherwise admitted on the record.~~
 30.34 The question of whether the defendant or an accomplice, at the time of commission of
 30.35 an offense listed in subdivision 9, used a firearm or other dangerous weapon or had

31.1 in possession a firearm shall be determined by the ~~court on the record~~ factfinder at the
31.2 time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the
31.3 record of the trial or the plea of guilty. The ~~court~~ factfinder shall also determine ~~on the~~
31.4 ~~record at the time of sentencing~~ whether the defendant has ~~been convicted of a second or~~
31.5 ~~subsequent~~ a prior conviction for an offense in which the defendant or an accomplice,
31.6 at the time of commission of an offense listed in subdivision 9, used a firearm or other
31.7 dangerous weapon or had in possession a firearm.

31.8 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
31.9 committed on or after that date.

31.10 Sec. 56. Minnesota Statutes 2004, section 609.21, is amended to read:

31.11 **609.21 CRIMINAL VEHICULAR HOMICIDE AND INJURY.**

31.12 Subdivision 1. **Criminal vehicular homicide.** A person is guilty of criminal
31.13 vehicular homicide resulting in death and may be sentenced to imprisonment for not
31.14 more than ten years or to payment of a fine of not more than \$20,000, or both, if the
31.15 person causes the death of a human being not constituting murder or manslaughter as a
31.16 result of operating a motor vehicle:

31.17 (1) in a grossly negligent manner;

31.18 (2) in a negligent manner while under the influence of:

31.19 (i) alcohol;

31.20 (ii) a controlled substance; or

31.21 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
31.22 within the ten years immediately preceding the current offense; or

31.23 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
31.24 applicable, a drug;

31.25 (3) while having an alcohol concentration of 0.08 or more;

31.26 (4) while having an alcohol concentration of 0.08 or more, as measured within
31.27 two hours of the time of driving;

31.28 (5) in a negligent manner while knowingly under the influence of a hazardous
31.29 substance;

31.30 (6) in a negligent manner while any amount of a controlled substance listed in
31.31 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
31.32 present in the person's body; or

31.33 (7) where the driver who causes the accident leaves the scene of the accident in
31.34 violation of section 169.09, subdivision 1 or 6.

32.1 Subd. 2. **Resulting in great bodily harm.** A person is guilty of criminal vehicular
32.2 operation resulting in great bodily harm and may be sentenced to imprisonment for not
32.3 more than five years or to payment of a fine of not more than \$10,000, or both, if the
32.4 person causes great bodily harm to another, not constituting attempted murder or assault,
32.5 as a result of operating a motor vehicle:

32.6 (1) in a grossly negligent manner;

32.7 (2) in a negligent manner while under the influence of:

32.8 (i) alcohol;

32.9 (ii) a controlled substance; ~~or~~

32.10 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
32.11 within the ten years immediately preceding the current offense; or

32.12 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
32.13 applicable, a drug;

32.14 (3) while having an alcohol concentration of 0.08 or more;

32.15 (4) while having an alcohol concentration of 0.08 or more, as measured within
32.16 two hours of the time of driving;

32.17 (5) in a negligent manner while knowingly under the influence of a hazardous
32.18 substance;

32.19 (6) in a negligent manner while any amount of a controlled substance listed in
32.20 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
32.21 present in the person's body; or

32.22 (7) where the driver who causes the accident leaves the scene of the accident in
32.23 violation of section 169.09, subdivision 1 or 6.

32.24 Subd. 2a. **Resulting in substantial bodily harm.** A person is guilty of criminal
32.25 vehicular operation resulting in substantial bodily harm and may be sentenced to
32.26 imprisonment of not more than three years or to payment of a fine of not more than
32.27 \$10,000, or both, if the person causes substantial bodily harm to another, as a result of
32.28 operating a motor vehicle;

32.29 (1) in a grossly negligent manner;

32.30 (2) in a negligent manner while under the influence of:

32.31 (i) alcohol;

32.32 (ii) a controlled substance; ~~or~~

32.33 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
32.34 within the ten years immediately preceding the current offense; or

32.35 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
32.36 applicable, a drug;

- 33.1 (3) while having an alcohol concentration of 0.08 or more;
- 33.2 (4) while having an alcohol concentration of 0.08 or more, as measured within
- 33.3 two hours of the time of driving;
- 33.4 (5) in a negligent manner while knowingly under the influence of a hazardous
- 33.5 substance;
- 33.6 (6) in a negligent manner while any amount of a controlled substance listed in
- 33.7 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
- 33.8 present in the person's body; or
- 33.9 (7) where the driver who causes the accident leaves the scene of the accident in
- 33.10 violation of section 169.09, subdivision 1 or 6.

33.11 **Subd. 2b. Resulting in bodily harm.** A person is guilty of criminal vehicular

33.12 operation resulting in bodily harm and may be sentenced to imprisonment for not more

33.13 than one year or to payment of a fine of not more than \$3,000, or both, if the person causes

33.14 bodily harm to another, as a result of operating a motor vehicle:

- 33.15 (1) in a grossly negligent manner;
- 33.16 (2) in a negligent manner while under the influence of:
- 33.17 (i) alcohol;
- 33.18 (ii) a controlled substance; ~~or~~
- 33.19 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
- 33.20 within the ten years immediately preceding the current offense; or
- 33.21 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
- 33.22 applicable, a drug;
- 33.23 (3) while having an alcohol concentration of 0.08 or more;
- 33.24 (4) while having an alcohol concentration of 0.08 or more, as measured within
- 33.25 two hours of the time of driving;
- 33.26 (5) in a negligent manner while knowingly under the influence of a hazardous
- 33.27 substance;
- 33.28 (6) in a negligent manner while any amount of a controlled substance listed in
- 33.29 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
- 33.30 present in the person's body; or
- 33.31 (7) where the driver who causes the accident leaves the scene of the accident in
- 33.32 violation of section 169.09, subdivision 1 or 6.

33.33 **Subd. 3. Resulting in death to an unborn child.** A person is guilty of criminal

33.34 vehicular operation resulting in death to an unborn child and may be sentenced to

33.35 imprisonment for not more than ten years or to payment of a fine of not more than

34.1 \$20,000, or both, if the person causes the death of an unborn child as a result of operating
34.2 a motor vehicle:

34.3 (1) in a grossly negligent manner;

34.4 (2) in a negligent manner while under the influence of:

34.5 (i) alcohol;

34.6 (ii) a controlled substance; ~~or~~

34.7 (iii) a drug, when a person has one or more qualified prior impaired driving incidents

34.8 within the ten years immediately preceding the current offense; or

34.9 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if

34.10 applicable, a drug;

34.11 (3) while having an alcohol concentration of 0.08 or more;

34.12 (4) while having an alcohol concentration of 0.08 or more, as measured within
34.13 two hours of the time of driving;

34.14 (5) in a negligent manner while knowingly under the influence of a hazardous
34.15 substance;

34.16 (6) in a negligent manner while any amount of a controlled substance listed in
34.17 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
34.18 present in the person's body; or

34.19 (7) where the driver who causes the accident leaves the scene of the accident in
34.20 violation of section 169.09, subdivision 1 or 6.

34.21 A prosecution for or conviction of a crime under this subdivision is not a bar to
34.22 conviction of or punishment for any other crime committed by the defendant as part of
34.23 the same conduct.

34.24 **Subd. 4. Resulting in injury to unborn child.** A person is guilty of criminal
34.25 vehicular operation resulting in injury to an unborn child and may be sentenced to
34.26 imprisonment for not more than five years or to payment of a fine of not more than
34.27 \$10,000, or both, if the person causes great bodily harm to an unborn child who is
34.28 subsequently born alive, as a result of operating a motor vehicle:

34.29 (1) in a grossly negligent manner;

34.30 (2) in a negligent manner while under the influence of:

34.31 (i) alcohol;

34.32 (ii) a controlled substance; ~~or~~

34.33 (iii) a drug, when a person has one or more qualified prior impaired driving incidents

34.34 within the ten years immediately preceding the current offense; or

34.35 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if

34.36 applicable, a drug;

- 35.1 (3) while having an alcohol concentration of 0.08 or more;
- 35.2 (4) while having an alcohol concentration of 0.08 or more, as measured within
- 35.3 two hours of the time of driving;
- 35.4 (5) in a negligent manner while knowingly under the influence of a hazardous
- 35.5 substance;
- 35.6 (6) in a negligent manner while any amount of a controlled substance listed in
- 35.7 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
- 35.8 present in the person's body; or
- 35.9 (7) where the driver who causes the accident leaves the scene of the accident in
- 35.10 violation of section 169.09, subdivision 1 or 6.

35.11 A prosecution for or conviction of a crime under this subdivision is not a bar to

35.12 conviction of or punishment for any other crime committed by the defendant as part of

35.13 the same conduct.

35.14 **Subd. 4a. Affirmative defense.** It shall be an affirmative defense to a charge under

35.15 subdivision 1, clause (6); 2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4,

35.16 clause (6), that the defendant used the controlled substance according to the terms of a

35.17 prescription issued for the defendant in accordance with sections 152.11 and 152.12.

35.18 **Subd. 5. Definitions.** For purposes of this section, the terms defined in this

35.19 subdivision have the meanings given them.

35.20 (a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1.

35.21 (b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

35.22 (c) "Hazardous substance" means any chemical or chemical compound that is listed

35.23 as a hazardous substance in rules adopted under chapter 182.

35.24 (d) "Metabolite" has the meaning given in section 169A.03, subdivision 11a.

35.25 (e) "Drug" has the meaning given in section 169A.03, subdivision 7a.

35.26 (f) "Qualified prior impaired driving incident" has the meaning given in section

35.27 169A.03, subdivision 22.

35.28 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes

35.29 committed on or after that date.

35.30 **Sec. 57.** Minnesota Statutes 2005 Supplement, section 609.3455, is amended by adding

35.31 a subdivision to read:

35.32 **Subd. 3a. Mandatory sentence for certain engrained offenders.** (a) A court shall

35.33 commit a person to the commissioner of corrections for a period of time that is not less

35.34 than double the presumptive sentence under the sentencing guidelines and not more than

36.1 the statutory maximum, or if the statutory maximum is less than double the presumptive
 36.2 sentence, for a period of time that is equal to the statutory maximum, if:

36.3 (1) the court is imposing an executed sentence on a person convicted of committing
 36.4 or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or
 36.5 609.3453;

36.6 (2) the factfinder determines that the offender is a danger to public safety; and

36.7 (3) the factfinder determines that the offender's criminal sexual behavior is so
 36.8 engrained that the risk of reoffending is great without intensive psychotherapeutic
 36.9 intervention or other long-term treatment or supervision extending beyond the presumptive
 36.10 term of imprisonment and supervised release.

36.11 (b) The factfinder shall base its determination that the offender is a danger to public
 36.12 safety on any of the following factors:

36.13 (1) the crime involved an aggravating factor that would justify a durational departure
 36.14 from the presumptive sentence under the sentencing guidelines;

36.15 (2) the offender previously committed or attempted to commit a predatory crime
 36.16 or a violation of section 609.224 or 609.2242, including:

36.17 (i) an offense committed as a juvenile that would have been a predatory crime or a
 36.18 violation of section 609.224 or 609.2242 if committed by an adult; or

36.19 (ii) a violation or attempted violation of a similar law of any other state or the United
 36.20 States; or

36.21 (3) the offender planned or prepared for the crime prior to its commission.

36.22 (c) As used in this section, "predatory crime" has the meaning given in section
 36.23 609.341, subdivision 22.

36.24 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
 36.25 committed on or after that date.

36.26 Sec. 58. Minnesota Statutes 2005 Supplement, section 609.3455, subdivision 4,
 36.27 is amended to read:

36.28 Subd. 4. **Mandatory life sentence; repeat offenders.** (a) Notwithstanding the
 36.29 statutory maximum penalty otherwise applicable to the offense, the court shall sentence a
 36.30 person to imprisonment for life if the person is convicted of violating section 609.342,
 36.31 609.343, 609.344, 609.345, or 609.3453 and:

36.32 (1) the person has two previous sex offense convictions;

36.33 (2) the person has a previous sex offense conviction and:

36.34 (i) the factfinder determines that the present offense involved an aggravating factor
 36.35 that would provide grounds for an upward durational departure under the sentencing

37.1 guidelines other than the aggravating factor applicable to repeat criminal sexual conduct
37.2 convictions;

37.3 (ii) the person received an upward durational departure from the sentencing
37.4 guidelines for the previous sex offense conviction; or

37.5 (iii) the person was sentenced under this section or section 609.108 for the previous
37.6 sex offense conviction; or

37.7 (3) the person has two prior sex offense convictions, and the factfinder determines
37.8 that the prior convictions and present offense involved at least three separate victims, and:

37.9 (i) the factfinder determines that the present offense involved an aggravating factor
37.10 that would provide grounds for an upward durational departure under the sentencing
37.11 guidelines other than the aggravating factor applicable to repeat criminal sexual conduct
37.12 convictions;

37.13 (ii) the person received an upward durational departure from the sentencing
37.14 guidelines for one of the prior sex offense convictions; or

37.15 (iii) the person was sentenced under this section or section 609.108 for one of the
37.16 prior sex offense convictions.

37.17 (b) Notwithstanding paragraph (a), a court may not sentence a person to
37.18 imprisonment for life for a violation of section 609.345, unless the person's previous or
37.19 prior sex offense convictions that are being used as the basis for the sentence are for
37.20 violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the
37.21 United States, this state, or any other state.

37.22 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
37.23 committed on or after that date.

37.24 Sec. 59. Minnesota Statutes 2005 Supplement, section 609.3455, subdivision 8,
37.25 is amended to read:

37.26 **Subd. 8. Terms of conditional release; applicable to all sex offenders.** (a) The
37.27 provisions of this subdivision relating to conditional release apply to all sex offenders
37.28 sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, or
37.29 609.3453. Except as provided in this subdivision, conditional release of sex offenders is
37.30 governed by provisions relating to supervised release. The commissioner of corrections
37.31 may not dismiss an offender on conditional release from supervision until the offender's
37.32 conditional release term expires.

37.33 (b) The conditions of release may include successful completion of treatment and
37.34 aftercare in a program approved by the commissioner, satisfaction of the release conditions
37.35 specified in section 244.05, subdivision 6, and any other conditions the commissioner

38.1 considers appropriate. The commissioner shall develop a plan to pay the cost of treatment
38.2 of a person released under this subdivision. The plan may include co-payments from
38.3 offenders, third-party payers, local agencies, or other funding sources as they are identified.
38.4 This section does not require the commissioner to accept or retain an offender in a
38.5 treatment program. Before the offender is placed on conditional release, the commissioner
38.6 shall notify the sentencing court and the prosecutor in the jurisdiction where the offender
38.7 was sentenced of the terms of the offender's conditional release. The commissioner also
38.8 shall make reasonable efforts to notify the victim of the offender's crime of the terms of
38.9 the offender's conditional release. If the offender fails to meet any condition of release, the
38.10 commissioner may revoke the offender's conditional release and order that the offender
38.11 serve all or a part of the remaining portion of the conditional release term in prison.

38.12 **EFFECTIVE DATE.** This section is effective August 1, 2006.

38.13 Sec. 60. Minnesota Statutes 2004, section 609.52, subdivision 3, is amended to read:

38.14 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

38.15 (1) to imprisonment for not more than 20 years or to payment of a fine of not more
38.16 than \$100,000, or both, if the property is a firearm, or the value of the property or services
38.17 stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause
38.18 (3), (4), (15), or (16); or

38.19 (2) to imprisonment for not more than ten years or to payment of a fine of not more
38.20 than \$20,000, or both, if the value of the property or services stolen exceeds ~~\$2,500~~
38.21 \$5,000, or if the property stolen was an article representing a trade secret, an explosive or
38.22 incendiary device, or a controlled substance listed in schedule I or II pursuant to section
38.23 152.02 with the exception of marijuana; or

38.24 (3) to imprisonment for not more than five years or to payment of a fine of not
38.25 more than \$10,000, or both, if:

38.26 (a) the value of the property or services stolen is more than ~~\$500~~ \$1,000 but not
38.27 more than ~~\$2,500~~ \$5,000; or

38.28 (b) the property stolen was a controlled substance listed in schedule III, IV, or V
38.29 pursuant to section 152.02; or

38.30 (c) the value of the property or services stolen is more than ~~\$250~~ \$500 but not more
38.31 than ~~\$500~~ \$1,000 and the person has been convicted within the preceding five years for an
38.32 offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582,
38.33 subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another
38.34 state, the United States, or a foreign jurisdiction, in conformity with any of those sections,
38.35 and the person received a felony or gross misdemeanor sentence for the offense, or a

39.1 sentence that was stayed under section 609.135 if the offense to which a plea was entered
39.2 would allow imposition of a felony or gross misdemeanor sentence; or

39.3 (d) the value of the property or services stolen is not more than ~~\$500~~ \$1,000, and
39.4 any of the following circumstances exist:

39.5 (i) the property is taken from the person of another or from a corpse, or grave or
39.6 coffin containing a corpse; or

39.7 (ii) the property is a record of a court or officer, or a writing, instrument or record
39.8 kept, filed or deposited according to law with or in the keeping of any public officer or
39.9 office; or

39.10 (iii) the property is taken from a burning, abandoned, or vacant building or upon its
39.11 removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing,
39.12 or the proximity of battle; or

39.13 (iv) the property consists of public funds belonging to the state or to any political
39.14 subdivision or agency thereof; or

39.15 (v) the property stolen is a motor vehicle; or

39.16 (4) to imprisonment for not more than one year or to payment of a fine of not more
39.17 than \$3,000, or both, if the value of the property or services stolen is more than ~~\$250~~ \$500
39.18 but not more than ~~\$500~~ \$1,000; or

39.19 (5) in all other cases where the value of the property or services stolen is ~~\$250~~
39.20 \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not
39.21 more than \$1,000, or both, provided, however, in any prosecution under subdivision 2,
39.22 clauses (1), (2), (3), (4), and (13), the value of the money or property or services received
39.23 by the defendant in violation of any one or more of the above provisions within any
39.24 six-month period may be aggregated and the defendant charged accordingly in applying
39.25 the provisions of this subdivision; provided that when two or more offenses are committed
39.26 by the same person in two or more counties, the accused may be prosecuted in any county
39.27 in which one of the offenses was committed for all of the offenses aggregated under
39.28 this paragraph.

39.29 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
39.30 committed on or after that date.

39.31 Sec. 61. Minnesota Statutes 2004, section 609.535, subdivision 2a, is amended to read:

39.32 Subd. 2a. **Penalties.** (a) A person who is convicted of issuing a dishonored check
39.33 under subdivision 2 may be sentenced as follows:

40.1 (1) to imprisonment for not more than five years or to payment of a fine of not more
40.2 than \$10,000, or both, if the value of the dishonored check, or checks aggregated under
40.3 paragraph (b), is more than ~~\$500~~ \$1,000;

40.4 (2) to imprisonment for not more than one year or to payment of a fine of not more
40.5 than \$3,000, or both, if the value of the dishonored check, or checks aggregated under
40.6 paragraph (b), is more than ~~\$250~~ \$500 but not more than ~~\$500~~ \$1,000; or

40.7 (3) to imprisonment for not more than 90 days or to payment of a fine of not more
40.8 than \$1,000, or both, if the value of the dishonored check, or checks aggregated under
40.9 paragraph (b), is not more than ~~\$250~~ \$500.

40.10 (b) In a prosecution under this subdivision, the value of dishonored checks issued
40.11 by the defendant in violation of this subdivision within any six-month period may be
40.12 aggregated and the defendant charged accordingly in applying this section. When two or
40.13 more offenses are committed by the same person in two or more counties, the accused
40.14 may be prosecuted in any county in which one of the dishonored checks was issued for all
40.15 of the offenses aggregated under this paragraph.

40.16 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
40.17 committed on or after that date.

40.18 Sec. 62. Minnesota Statutes 2004, section 609.595, subdivision 1, is amended to read:

40.19 Subdivision 1. **Criminal damage to property in the first degree.** Whoever
40.20 intentionally causes damage to physical property of another without the latter's consent
40.21 may be sentenced to imprisonment for not more than five years or to payment of a fine of
40.22 not more than \$10,000, or both, if:

40.23 (1) the damage to the property caused a reasonably foreseeable risk of bodily
40.24 harm; or

40.25 (2) the property damaged belongs to a common carrier and the damage impairs the
40.26 service to the public rendered by the carrier; or

40.27 (3) the damage reduces the value of the property by more than ~~\$500~~ \$1,000 measured
40.28 by the cost of repair and replacement; or

40.29 (4) the damage reduces the value of the property by more than ~~\$250~~ \$500 measured
40.30 by the cost of repair and replacement and the defendant has been convicted within the
40.31 preceding three years of an offense under this subdivision or subdivision 2.

40.32 In any prosecution under clause (3), the value of any property damaged by the
40.33 defendant in violation of that clause within any six-month period may be aggregated and
40.34 the defendant charged accordingly in applying the provisions of this section; provided that
40.35 when two or more offenses are committed by the same person in two or more counties, the

41.1 accused may be prosecuted in any county in which one of the offenses was committed for
41.2 all of the offenses aggregated under this paragraph.

41.3 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
41.4 committed on or after that date.

41.5 Sec. 63. Minnesota Statutes 2004, section 609.595, subdivision 2, is amended to read:

41.6 Subd. 2. **Criminal damage to property in the third degree.** (a) Except as
41.7 otherwise provided in subdivision 1a, whoever intentionally causes damage to another
41.8 person's physical property without the other person's consent may be sentenced to
41.9 imprisonment for not more than one year or to payment of a fine of not more than \$3,000,
41.10 or both, if the damage reduces the value of the property by more than ~~\$250~~ \$500 but not
41.11 more than ~~\$500~~ \$1,000 as measured by the cost of repair and replacement.

41.12 (b) Whoever intentionally causes damage to another person's physical property
41.13 without the other person's consent because of the property owner's or another's actual
41.14 or perceived race, color, religion, sex, sexual orientation, disability as defined in section
41.15 363A.03, age, or national origin may be sentenced to imprisonment for not more than one
41.16 year or to payment of a fine of not more than \$3,000, or both, if the damage reduces the
41.17 value of the property by not more than ~~\$250~~ \$500.

41.18 (c) In any prosecution under paragraph (a), the value of property damaged by the
41.19 defendant in violation of that paragraph within any six-month period may be aggregated
41.20 and the defendant charged accordingly in applying this section. When two or more
41.21 offenses are committed by the same person in two or more counties, the accused may
41.22 be prosecuted in any county in which one of the offenses was committed for all of the
41.23 offenses aggregated under this paragraph.

41.24 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
41.25 committed on or after that date.

41.26 Sec. 64. **[609.8935] UNLAWFUL CONDUCT RELATING TO TELEPHONE**
41.27 **RECORDS.**

41.28 **Subdivision 1. Definitions.** (a) As used in this section, the following terms have
41.29 the meanings given.

41.30 (b) "Customer" means a person or other entity that subscribes to telephone service
41.31 from a telephone company.

41.32 (c) "Procure" means to obtain by any means, whether electronically, in writing, or in
41.33 oral form, with or without consideration.

41.34 (d) "Telephone company" means any person or other entity that provides commercial
41.35 telephone service to a customer, irrespective of the communications technology used to

42.1 provide the service, including, but not limited to, traditional wireline or cable telephone
42.2 service; cellular, broadband PCS, or other wireless telephone service; microwave, satellite,
42.3 or other terrestrial telephone service; and voice over Internet telephone service.

42.4 (e) "Telephone records" include information retained by a telephone company that
42.5 relates to the telephone number dialed from a customer's telephone, or the incoming call
42.6 directed to a customer's telephone, or other data related to calls typically contained on
42.7 a customer's telephone bill, including, but not limited to, the time the call started and
42.8 ended, the duration of the call, the time of day the call was made, and any charges applied.
42.9 However, for the purposes of this section, any information collected and retained by
42.10 customers utilizing caller ID, or other similar technology, does not constitute a telephone
42.11 record.

42.12 Subd. 2. Crime defined; penalty. (a) A person commits the crime of unlawful
42.13 conduct relating to telephone records if the person:

42.14 (1) knowingly procures a telephone record of another without that person's
42.15 authorization or by fraudulent, deceptive, or false means;

42.16 (2) knowingly sells a telephone record of another without that person's authorization;

42.17 or

42.18 (3) receives a telephone record of another knowing that the record has been obtained
42.19 without that person's authorization or by fraudulent, deceptive, or false means.

42.20 (b) A person who violates this subdivision may be sentenced to:

42.21 (1) imprisonment for not more than one year or to payment of a fine of not more
42.22 than \$3,000, or both, if the violation involves a single telephone record;

42.23 (2) imprisonment for not more than two years or to payment of a fine of not more
42.24 than \$20,000, or both, if the violation involves at least two and no more than ten telephone
42.25 records; or

42.26 (3) imprisonment for not more than five years or to payment of a fine of not more
42.27 than \$50,000, or both, if the violation involves more than ten telephone records.

42.28 Subd. 3. Exceptions. The penalties in this section do not apply to:

42.29 (1) peace officers or employees or agents of law enforcement agencies acting in
42.30 the official course of their duties;

42.31 (2) individuals acting pursuant to a valid court order, warrant, or subpoena;

42.32 (3) employees or agents of telephone companies acting:

42.33 (i) as otherwise authorized by law;

42.34 (ii) with the lawful consent of the customer;

42.35 (iii) as may be necessarily incident to the rendition of the service or to the protection
42.36 of the rights or property of the provider of that service, or to protect users of those services

43.1 and other companies from fraudulent, abusive, or unlawful use of, or subscription to,
43.2 these services;

43.3 (iv) in cooperation with a governmental entity, if the telephone company reasonably
43.4 believes that an emergency involving immediate danger of death or serious physical injury
43.5 to any person justifies disclosure of the information;

43.6 (v) in cooperation with the National Center for Missing and Exploited Children,
43.7 in connection with a report submitted to it under United States Code, title 42, section
43.8 13032; or

43.9 (vi) in connection with the sale or transfer of all or part of the company's business,
43.10 or the purchase or acquisition of a portion or all of a business, or the migration of a
43.11 customer from one company to another.

43.12 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
43.13 committed on or after that date.

43.14 Sec. 65. Minnesota Statutes 2004, section 611A.0315, is amended to read:

43.15 **611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT;**
43.16 **HARASSMENT.**

43.17 Subdivision 1. **Notice of decision not to prosecute.** (a) A prosecutor shall make
43.18 every reasonable effort to notify a victim of domestic assault, a criminal sexual conduct
43.19 offense, or harassment that the prosecutor has decided to decline prosecution of the case
43.20 or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim
43.21 should include, in order of priority: (1) contacting the victim or a person designated by the
43.22 victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody,
43.23 the notification attempt shall be made before the suspect is released from custody.

43.24 (b) Whenever a prosecutor dismisses criminal charges against a person accused of
43.25 domestic assault, a criminal sexual conduct offense, or harassment, a record shall be made
43.26 of the specific reasons for the dismissal. If the dismissal is due to the unavailability of the
43.27 witness, the prosecutor shall indicate the specific reason that the witness is unavailable.

43.28 (c) Whenever a prosecutor notifies a victim of domestic assault or harassment under
43.29 this section, the prosecutor shall also inform the victim of the method and benefits of
43.30 seeking an order for protection under section 518B.01 or a restraining order under section
43.31 609.748 and that the victim may seek an order without paying a fee.

43.32 Subd. 2. **Definitions.** For the purposes of this section, the following terms have
43.33 the meanings given them.

43.34 (a) "Assault" has the meaning given it in section 609.02, subdivision 10.

44.1 (b) "Domestic assault" means an assault committed by the actor against a family or
44.2 household member.

44.3 (c) "Family or household member" has the meaning given it in section 518B.01,
44.4 subdivision 2.

44.5 (d) "Harassment" means a violation of section 609.749.

44.6 (e) "Criminal sexual conduct" means a violation of sections 609.342 to 609.3453.

44.7 **EFFECTIVE DATE.** This section is effective July 1, 2006.

44.8 Sec. 66. Minnesota Statutes 2004, section 617.246, is amended by adding a subdivision
44.9 to read:

44.10 **Subd. 7. Conditional release term.** Notwithstanding the statutory maximum
44.11 sentence otherwise applicable to the offense or any provision of the sentencing guidelines,
44.12 when a court commits a person to the custody of the commissioner of corrections for
44.13 violating this section, the court shall provide that after the person has completed the
44.14 sentence imposed, the commissioner shall place the person on conditional release for five
44.15 years. If the person has previously been convicted of a violation of this section, section
44.16 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.247, or any similar
44.17 statute of the United States, this state, or any state, the commissioner shall place the
44.18 person on conditional release for ten years. The terms of conditional release are governed
44.19 by section 609.3455, subdivision 8.

44.20 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
44.21 committed on or after that date.

44.22 Sec. 67. Minnesota Statutes 2004, section 617.247, is amended by adding a subdivision
44.23 to read:

44.24 **Subd. 9. Conditional release term.** Notwithstanding the statutory maximum
44.25 sentence otherwise applicable to the offense or any provision of the sentencing guidelines,
44.26 when a court commits a person to the custody of the commissioner of corrections for
44.27 violating this section, the court shall provide that after the person has completed the
44.28 sentence imposed, the commissioner shall place the person on conditional release for five
44.29 years. If the person has previously been convicted of a violation of this section, section
44.30 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.246, or any similar
44.31 statute of the United States, this state, or any state, the commissioner shall place the
44.32 person on conditional release for ten years. The terms of conditional release are governed
44.33 by section 609.3455, subdivision 8.

45.1 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
45.2 committed on or after that date.

45.3 Sec. 68. Minnesota Statutes 2004, section 624.22, subdivision 8, is amended to read:

45.4 Subd. 8. **Suspension, revocation, or refusal to renew certification.** (a) The state
45.5 fire marshal may suspend, revoke, or refuse to renew certification of an operator if the
45.6 operator has:

45.7 (1) submitted a fraudulent application;

45.8 (2) caused or permitted a fire or safety hazard to exist or occur during the storage,
45.9 transportation, handling, preparation, or use of fireworks;

45.10 (3) conducted a display of fireworks without receipt of a permit required by the
45.11 state or a political subdivision;

45.12 (4) conducted a display of fireworks with assistants who were not at least 18 years of
45.13 age, properly instructed, and continually supervised; or

45.14 (5) otherwise failed to comply with any federal or state law or regulation, or the
45.15 guidelines, relating to fireworks.

45.16 (b) Any person aggrieved by a decision made by the state fire marshal under this
45.17 subdivision may petition the state fire marshal in writing to reconsider the decision. The
45.18 state fire marshal shall render a decision in writing within 30 days of receipt of the
45.19 written request for reconsideration. Following reconsideration, the person may appeal
45.20 the decision to the district court.

45.21 **EFFECTIVE DATE.** This section is effective July 1, 2006.

45.22 Sec. 69. Minnesota Statutes 2004, section 631.425, subdivision 3, is amended to read:

45.23 Subd. 3. **Continuation of employment.** If the person committed under this
45.24 section has been regularly employed, the sheriff shall arrange for a continuation of the
45.25 employment insofar as possible without interruption. If the person is not employed, the
45.26 court may designate a suitable person or agency to make reasonable efforts to secure some
45.27 suitable employment for that person. An inmate employed under this section must be paid
45.28 a fair and reasonable wage for work performed and must work at fair and reasonable hours
45.29 per day and per week. There must not be a fee or charge for the inmate to participate in
45.30 any employment under this section if the inmate is paying for the cost of the inmate's
45.31 maintenance under subdivision 5.

45.32 **EFFECTIVE DATE.** This section is effective July 1, 2006.

45.33 Sec. 70. Minnesota Statutes 2004, section 641.265, subdivision 2, is amended to read:

46.1 Subd. 2. **Withdrawal.** A county board may withdraw from cooperation in a regional
 46.2 jail system ~~if the county boards of all of the other cooperating counties decide, by majority~~
 46.3 ~~vote, to allow the withdrawal~~ in accordance with the terms of a joint powers agreement.

46.4 With the approval of the county board of each cooperating county, the regional jail board
 46.5 shall fix the sum, if any, to be paid to the county withdrawing, to reimburse it for capital
 46.6 cost, debt service, or lease rental payments made by the county prior to withdrawal, in
 46.7 excess of its proportionate share of benefits from the regional jail prior to withdrawal, and
 46.8 the time and manner of making the payments. The payments shall be deemed additional
 46.9 payments of capital cost, debt service, or lease rentals to be made proportionately by the
 46.10 remaining counties and, when received, shall be deposited in and paid from the regional
 46.11 jail fund; provided that:

46.12 (a) (1) payments shall not be made from any amounts in the regional jail fund
 46.13 which are needed for maintenance and operation expenses or lease rentals currently due
 46.14 and payable; and

46.15 (b) (2) the withdrawing county shall remain obligated for the payment of its
 46.16 proportionate share of any lease rentals due and payable after its withdrawal, in the
 46.17 event and up to the amount of any lease payment not made when due by one or more of
 46.18 the other cooperating counties.

46.19 **EFFECTIVE DATE.** This section is effective July 1, 2006.

46.20 Sec. 71. Laws 2005, chapter 136, article 16, section 3, the effective date, is amended to
 46.21 read:

46.22 **EFFECTIVE DATE.** This section is effective the day following final enactment
 46.23 and applies to sentencing hearings, resentencing hearings, and sentencing departures
 46.24 sought on or after that date. ~~This section expires February 1, 2007.~~

46.25 **EFFECTIVE DATE.** This section is effective July 1, 2006.

46.26 Sec. 72. Laws 2005, chapter 136, article 16, section 4, the effective date, is amended to
 46.27 read:

46.28 **EFFECTIVE DATE.** This section is effective the day following final enactment
 46.29 and applies to sentencing hearings, resentencing hearings, and sentencing departures
 46.30 sought on or after that date. ~~This section expires February 1, 2007.~~

46.31 **EFFECTIVE DATE.** This section is effective July 1, 2006.

46.32 Sec. 73. Laws 2005, chapter 136, article 16, section 5, the effective date, is amended to
 46.33 read:

47.1 **EFFECTIVE DATE.** This section is effective the day following final enactment
47.2 and applies to sentencing hearings, resentencing hearings, and sentencing departures
47.3 sought on or after that date. ~~This section expires February 1, 2007.~~

47.4 **EFFECTIVE DATE.** This section is effective July 1, 2006.

47.5 Sec. 74. Laws 2005, chapter 136, article 16, section 6, the effective date, is amended to
47.6 read:

47.7 **EFFECTIVE DATE.** This section is effective the day following final enactment
47.8 and applies to sentencing hearings, resentencing hearings, and sentencing departures
47.9 sought on or after that date. ~~This section expires February 1, 2007.~~

47.10 **EFFECTIVE DATE.** This section is effective July 1, 2006.

47.11 Sec. 75. **MISSING PERSONS, UNIDENTIFIED BODIES; RECORDS AND**
47.12 **DATA ENTERING BACKLOG.**

47.13 **Subdivision 1. Bureau of Criminal Apprehension to address backlog.** The
47.14 superintendent of the Bureau of Criminal Apprehension shall coordinate with federal and
47.15 local units of government; federal, state, and local law enforcement agencies; medical
47.16 examiners; coroners; odontologists; and other entities to reduce the state's reporting, data
47.17 entry, and record keeping backlog relating to missing persons and unidentified bodies. To
47.18 the degree feasible, the superintendent shall ensure that all necessary data and samples,
47.19 including, but not limited to, DNA samples and dental records get entered into all relevant
47.20 federal and state databases.

47.21 **Subd. 2. Report to legislature.** By February 1, 2007, the superintendent shall
47.22 report to the chairs and ranking minority members of the senate and house committees and
47.23 divisions having jurisdiction over criminal justice policy and funding on the efforts under
47.24 subdivision 1 to reduce the state's backlog. The report must give detailed information on
47.25 how the appropriation in section 79, subdivision 2, was spent and how this affected the
47.26 backlog. In addition, the report must make recommendations for changes to state law,
47.27 including suggested legislative language, to improve reporting, data entry, and record
47.28 keeping relating to future cases involving missing persons and unidentified bodies.

47.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

47.30 Sec. 76. **MODEL POLICY; REPORT.**

47.31 **Subdivision 1. Model policy.** The superintendent of the Bureau of Criminal
47.32 Apprehension, in consultation with the Minnesota Sheriffs Association and the Minnesota
47.33 Chiefs of Police Association, shall develop a model policy to address law enforcement

48.1 efforts and duties regarding missing adults and provide training to local law enforcement
48.2 agencies on this model policy.

48.3 Subd. 2. Report. By February 1, 2007, the superintendent shall report to the chairs
48.4 and ranking minority members of the senate and house committees and divisions having
48.5 jurisdiction over criminal justice policy and funding on the model policy and training
48.6 described in subdivision 1.

48.7 EFFECTIVE DATE. This section is effective the day following final enactment.

48.8 **Sec. 77. SENTENCING GUIDELINES MODIFICATIONS.**

48.9 (a) Except as provided in paragraph (b), the modifications related to sex offenses
48.10 proposed by the Minnesota Sentencing Guidelines Commission and described in the
48.11 January 2006 Report to the Legislature, pages 31 to 45, are adopted and take effect on
48.12 August 1, 2006.

48.13 (b) The proposed rankings of Minnesota Statutes, sections 609.344, subdivision 1,
48.14 clauses (h), (i), and (l); and 609.345, subdivision 1, clauses (h), (i), and (l), are rejected
48.15 and do not take effect.

48.16 (c) The commission is requested to rank violations of:

48.17 (1) Minnesota Statutes, section 609.344, subdivision 1, clauses (h), (i), and (l),
48.18 at severity level C;

48.19 (2) Minnesota Statutes, section 609.344, subdivision 1, clause (a), at severity level D;

48.20 (3) Minnesota Statutes, section 609.345, subdivision 1, clauses (h), (i), and (l),
48.21 at severity level E; and

48.22 (4) Minnesota Statutes, section 609.345, subdivision 1, clause (a), at severity level F.

48.23 (d) If the commission decides to make the changes requested in paragraph (c), it
48.24 shall ensure that the changes are effective on August 1, 2006, and publish an updated
48.25 version of the sentencing guidelines that include the changes by that date.

48.26 EFFECTIVE DATE. This section is effective the day following final enactment.

48.27 **Sec. 78. SUBSTANCE ABUSE TREATMENT; RECOMMENDATIONS,**
48.28 **REPORT.**

48.29 (a) The commissioner of corrections shall make recommendations to:

48.30 (1) improve the availability of prison-based substance abuse treatment programming
48.31 and related services; and

48.32 (2) better ensure that offenders released from prison receive appropriate
48.33 community-based substance abuse treatment and services.

49.1 These recommendations must include an estimate of the financial costs associated with
 49.2 implementing them.

49.3 (b) The commissioner shall recommend changes in prison-based programs or release
 49.4 plans to improve the postprison release outcomes of:

49.5 (1) inmates who are directed to complete prison-based short-term substance abuse
 49.6 programs; and

49.7 (2) inmates who fail the prison-based substance abuse programs they start.

49.8 (c) By January 15, 2007, the commissioner shall report to the chairs and ranking
 49.9 minority members of the senate and house committees and divisions having jurisdiction
 49.10 over criminal justice policy and funding on the commissioner's recommendations under
 49.11 paragraphs (a) and (b).

49.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

49.13 **Sec. 79. APPROPRIATIONS.**

49.14 Subdivision 1. Public safety. (a) \$..... is appropriated to the commissioner of
 49.15 public safety from the general fund for the fiscal year ending June 30, 2007, to implement
 49.16 the toll-free hotline for trafficking victims described in section 40.

49.17 (b) \$623,000 is appropriated to the commissioner of public safety from the general
 49.18 fund for the fiscal year ending June 30, 2007, to provide the mentor criminal background
 49.19 checks as provided in section 41.

49.20 Subd. 2. Bureau of Criminal Apprehension. \$..... is appropriated to the
 49.21 superintendent of the Bureau of Criminal Apprehension from the general fund for the
 49.22 fiscal year ending June 30, 2007, to implement section 75 relating to the missing persons
 49.23 and unidentified bodies backlog. This is a onetime appropriation.

49.24 **Sec. 80. REVISOR'S INSTRUCTION.**

49.25 When appropriate, the revisor of statutes shall replace statutory references to
 49.26 Minnesota Statutes, section 609.108, with references to section 609.3455, subdivision 3a.

49.27 **EFFECTIVE DATE.** This section is effective August 1, 2006.

49.28 **Sec. 81. REPEALER.**

49.29 Minnesota Statutes 2004, sections 152.094; 169A.41, subdivision 4; 609.108,
 49.30 subdivision 5; and 609.109, subdivisions 1 and 3, and Minnesota Statutes 2005
 49.31 Supplement, sections 609.108, subdivisions 1, 3, 4, 6, and 7; and 609.109, subdivisions 2,
 49.32 4, 5, and 6, are repealed.

- 50.1 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
- 50.2 committed on or after that date."
- 50.3 Amend the title accordingly

- 1.1 Senator moves to amend the delete-everything amendment
- 1.2 (SCS2919A-1) to S.F. No. 2919 as follows:
- 1.3 Pages 4 and 5, delete sections 8 to 10
- 1.4 Pages 6 to 14, delete sections 12 to 25
- 1.5 Page 31, delete section 56
- 1.6 Page 49, line 29, delete "169A.41, subdivision 4"
- 1.7 Renumber the sections in sequence and correct the internal references
- 1.8 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 42, line 35, after "service" insert "to initiate, render, bill, and collect customer
1.4 charges,"

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 44, line 15, after "years" insert ", minus the time the offender served on
1.4 supervised release"

1.5 Page 44, line 18, after "years" insert ", minus the time the offender served on
1.6 supervised release"

1.7 Page 44, line 29, after "years" insert ", minus the time the offender served on
1.8 supervised release"

1.9 Page 44, line 32, after "years" insert ", minus the time the offender served on
1.10 supervised release"

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 17, after line 4, insert:

1.4 "Sec. 28. Minnesota Statutes 2004, section 181.973, is amended to read:

1.5 **181.973 ~~EMPLOYEE~~ PUBLIC SAFETY PEER COUNSELING AND**
1.6 **DEBRIEFING.**

1.7 A person engaged in a public safety peer counseling or a public safety peer debriefing
1.8 shall not, without the permission of the person being debriefed or counseled, be allowed to
1.9 disclose any information or opinion which the peer group member or peer counselor has
1.10 acquired during the ~~debriefing process~~. However, this does not prohibit a peer counselor
1.11 from disclosing information the peer counselor reasonably believes indicates that the
1.12 person may be a danger to self or others, if the information is used only for the purpose of
1.13 eliminating the danger to the person or others. Any information or opinion disclosed in
1.14 violation of this paragraph is not admissible as evidence in any personnel or occupational
1.15 licensing matter involving the person being debriefed or counseled.

1.16 For purposes of this ~~paragraph~~ section, "public safety peer counseling or debriefing"
1.17 means a group process oriented debriefing session, or one-to-one contact with a peer
1.18 counselor, held for peace officers, firefighters, medical emergency persons, dispatchers,
1.19 or other persons involved with public safety emergency services, that is established by
1.20 any agency providing public safety emergency services and is designed to help a person
1.21 who has suffered an occupation-related ~~traumatic event~~ trauma, illness, or stress begin
1.22 the process of healing and effectively dealing with ~~posttraumatic stress~~ the person's
1.23 problems or the use of the peer counselor for direction with referrals to better service
1.24 these occupation-related issues. A "peer counselor" means someone so designated by
1.25 that agency.

1.26 **EFFECTIVE DATE. This section is effective July 1, 2006.**

1.27 Renumber the sections in sequence and correct the internal references

1.28 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 21, after line 24, insert:

1.4 "Sec. 40. Minnesota Statutes 2004, section 253B.02, subdivision 2, is amended to
1.5 read:

1.6 Subd. 2. **Chemically dependent person.** "Chemically dependent person" means
1.7 any person (a) determined as being incapable of self-management or management of
1.8 personal affairs by reason of the habitual and excessive use of alcohol, drugs, or other
1.9 mind-altering substances; and (b) whose recent conduct as a result of habitual and
1.10 excessive use of alcohol, drugs, or other mind-altering substances poses a substantial
1.11 likelihood of physical harm to self or others as demonstrated by (i) a recent attempt or
1.12 threat to physically harm self or others, (ii) evidence of recent serious physical problems,
1.13 or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. "Chemically
1.14 dependent person" also means a pregnant woman who has engaged during the pregnancy
1.15 in habitual or excessive use, for a nonmedical purpose, of any of the following controlled
1.16 substances or their derivatives: opium, cocaine, heroin, phencyclidine, methamphetamine,
1.17 or amphetamine.

1.18 **EFFECTIVE DATE.** This section is effective July 1, 2006."

1.19 Renumber the sections in sequence and correct the internal references

1.20 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 19, after line 26, insert:

1.4 "Sec. 35. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 1b,
1.5 is amended to read:

1.6 Subd. 1b. **Registration required.** (a) A person shall register under this section if:

1.7 (1) the person was charged with or petitioned for a felony violation of or attempt to
1.8 violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted
1.9 of or adjudicated delinquent for that offense or another offense arising out of the same
1.10 set of circumstances:

1.11 (i) murder under section 609.185, clause (2);

1.12 (ii) kidnapping under section 609.25;

1.13 (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345;
1.14 609.3451, subdivision 3; or 609.3453; or

1.15 (iv) indecent exposure under section 617.23, subdivision 3;

1.16 (2) the person was charged with or petitioned for a violation of, or attempt to
1.17 violate, or aiding, abetting, or conspiracy to commit false imprisonment in violation of
1.18 section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of
1.19 section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of
1.20 section 609.352; using a minor in a sexual performance in violation of section 617.246;
1.21 or possessing pornographic work involving a minor in violation of section 617.247, and
1.22 convicted of or adjudicated delinquent for that offense or another offense arising out
1.23 of the same set of circumstances;

1.24 (3) the person was sentenced as a patterned sex offender under section 609.108; or

1.25 (4) the person was convicted of or adjudicated delinquent for, including pursuant
1.26 to a court martial, violating a law of the United States, including the Uniform Code of
1.27 Military Justice, similar to the offenses described in clause (1), (2), or (3).

1.28 (b) A person also shall register under this section if:

1.29 (1) the person was convicted of or adjudicated delinquent in another state for an
1.30 offense that would be a violation of a law described in paragraph (a) if committed in
1.31 this state;

1.32 (2) the person enters this state to reside, work, or attend school, or enters this state
1.33 and remains for 14 days or longer; and

1.34 (3) ten years have not elapsed since the person was released from confinement
1.35 or, if the person was not confined, since the person was convicted of or adjudicated
1.36 delinquent for the offense that triggers registration, unless the person is subject to lifetime

2.1 registration, ~~in which case~~. If the person is required to register for life under Minnesota
2.2 law or the law of any other state in which the person has been convicted, adjudicated, or
2.3 required to register, the person shall register for life regardless of when the person was
2.4 released from confinement, convicted, or adjudicated delinquent.

2.5 (c) A person also shall register under this section if the person was committed
2.6 pursuant to a court commitment order under section 253B.185 or Minnesota Statutes
2.7 1992, section 526.10, or a similar law of another state or the United States, regardless of
2.8 whether the person was convicted of any offense.

2.9 (d) A person also shall register under this section if:

2.10 (1) the person was charged with or petitioned for a felony violation or attempt to
2.11 violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another
2.12 state or the United States, or the person was charged with or petitioned for a violation of
2.13 any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or
2.14 the United States;

2.15 (2) the person was found not guilty by reason of mental illness or mental deficiency
2.16 after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in
2.17 states with a guilty but mentally ill verdict; and

2.18 (3) the person was committed pursuant to a court commitment order under section
2.19 253B.18 or a similar law of another state or the United States.

2.20 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.21 and applies to offenders residing in Minnesota on or after that date.

2.22 Sec. 36. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 6, is
2.23 amended to read:

2.24 Subd. 6. **Registration period.** (a) Notwithstanding the provisions of section
2.25 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person
2.26 required to register under this section shall continue to comply with this section until ten
2.27 years have elapsed since the person initially registered in connection with the offense, or
2.28 until the probation, supervised release, or conditional release period expires, whichever
2.29 occurs later. For a person required to register under this section who is committed under
2.30 section 253B.18 or 253B.185, the ten-year registration period does not include the period
2.31 of commitment.

2.32 (b) If a person required to register under this section fails to provide the person's
2.33 primary address as required by subdivision 3, paragraph (b), fails to comply with the
2.34 requirements of subdivision 3a, fails to provide information as required by subdivision
2.35 4a, or fails to return the verification form referenced in subdivision 4 within ten days,

3.1 the commissioner of public safety may require the person to continue to register for an
 3.2 additional period of five years. This five-year period is added to the end of the offender's
 3.3 registration period.

3.4 (c) If a person required to register under this section is subsequently incarcerated
 3.5 following a conviction for a new offense or following a revocation of probation,
 3.6 supervised release, or conditional release for any offense, the person shall continue to
 3.7 register until ten years have elapsed since the person was last released from incarceration
 3.8 or until the person's probation, supervised release, or conditional release period expires,
 3.9 whichever occurs later.

3.10 (d) A person shall continue to comply with this section for the life of that person:

3.11 (1) if the person is convicted of or adjudicated delinquent for any offense for which
 3.12 registration is required under subdivision 1b, or any offense from another state or any
 3.13 federal offense similar to the offenses described in subdivision 1b, and the person has a
 3.14 prior conviction or adjudication for an offense for which registration was or would have
 3.15 been required under subdivision 1b, or an offense from another state or a federal offense
 3.16 similar to an offense described in subdivision 1b;

3.17 (2) if the person is required to register based upon a conviction or delinquency
 3.18 adjudication for an offense under section 609.185, clause (2), or a similar statute from
 3.19 another state or the United States;

3.20 (3) if the person is required to register based upon a conviction for an offense under
 3.21 section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision
 3.22 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g);
 3.23 or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the
 3.24 United States similar to the offenses described in this clause; ~~or~~

3.25 (4) if the person is required to register under subdivision 1b, paragraph (c), following
 3.26 commitment pursuant to a court commitment under section 253B.185 or a similar law
 3.27 of another state or the United States; or

3.28 (5) if the person is required to register for life under the law of any other state in
 3.29 which the person has been previously convicted, adjudicated, or required to register.

3.30 **EFFECTIVE DATE. This section is effective the day following final enactment**
 3.31 **and applies to offenders residing in Minnesota on or after that date.**"

3.32 Renumber the sections in sequence and correct the internal references

3.33 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 30, after line 16, insert:

1.4 "Sec. 54. Minnesota Statutes 2004, section 390.005, is amended to read:

1.5 **390.005 ELECTION OR APPOINTMENT, ELIGIBILITY; VACANCIES;**
1.6 **REMOVAL.**

1.7 Subdivision 1. ~~County election~~ **Selection of coroner or medical examiner.** Each
1.8 county must have a coroner or medical examiner. A coroner ~~shall~~ may be elected ~~in each~~
1.9 county, as prescribed by section 382.01, ~~except as provided in this section~~ or appointed in
1.10 each county. A medical examiner must be appointed by the county board. The term of an
1.11 appointed coroner or medical examiner must not be longer than four years.

1.12 Subd. 2. **Appointment by resolution.** ~~In a county where the office of coroner has~~
1.13 ~~not been abolished,~~ The board of county commissioners may, by resolution, state its
1.14 intention to fill the office of coroner by appointment. The resolution must be adopted at
1.15 least six months before the end of the term of the incumbent coroner, if elected. After the
1.16 resolution is adopted, the board shall fill the office by appointing a person not less than
1.17 30 days before the end of the incumbent's term. The appointed coroner shall serve for a
1.18 term of office determined by the board beginning upon the expiration of the term of the
1.19 incumbent. The term must not be longer than four years.

1.20 If there is a vacancy in the elected office ~~in the county,~~ the board may by resolution,
1.21 state its intention to fill the office by appointment. When the resolution is adopted, the
1.22 board shall fill the office by appointment immediately. The coroner shall serve for a term
1.23 determined by the board. The term must not be longer than four years.

1.24 Subd. 3. ~~Educational requirements~~ **Qualifications.** ~~A coroner must have~~
1.25 ~~successfully completed academic courses in pharmacology, surgery, pathology, toxicology,~~
1.26 ~~and physiology. However, if a board of county commissioners determines that the office~~
1.27 ~~of coroner shall not be elective and it cannot appoint any person meeting the educational~~
1.28 ~~qualifications as coroner, the board may:~~

- 1.29 (1) ~~appoint any qualified person, whether or not a resident of the county, or~~
- 1.30 (2) ~~if no qualified person can be found, appoint a person who is serving or has served~~
1.31 ~~as deputy coroner, whether or not a resident of the county.~~ (a) The medical examiner must
1.32 be a forensic pathologist who is certified or eligible for certification by the American
1.33 Board of Pathology. The medical examiner is an appointed public official in a system of
1.34 death investigation in which the administrative control, the determination of the extent
1.35 of the examination, need for autopsy and the filing of the cause and manner of death

2.1 information with the state registrar pursuant to section 144.221 are all under the control
 2.2 of the medical examiner.

2.3 (b) The coroner must be a physician with a valid license in good standing under
 2.4 chapter 147, to practice medicine as defined under section 147.081, subd. 3. The coroner
 2.5 is a public official, elected or appointed, whose duty is to make inquiry into deaths in
 2.6 certain categories, determine the cause and manner of death, and file the information
 2.7 with the state registrar pursuant to section 144.221. The coroner must obtain additional
 2.8 training in medicolegal death investigation, such as training by the American Board of
 2.9 Medicolegal Death Investigators, within four years of taking office, unless the coroner
 2.10 has already obtained this training.

2.11 (c) The coroner or medical examiner need not be a resident of the county.

2.12 Subd. 4. **Certain incumbents.** An incumbent coroner or medical examiner in
 2.13 office on July 1, 1965 meets the effective date of this section is hereby deemed to meet
 2.14 the qualifications prescribed by this section for the purpose of continuance in, reelection
 2.15 to, or appointment to the office of coroner until the end of the current term of office,
 2.16 after which this statute will apply.

2.17 Subd. 5. **Vacancies, removal.** Vacancies in the office of coroner or medical
 2.18 examiner shall be filled according to sections 375.08 and 382.02, or under subdivision 1.
 2.19 ~~A~~ The medical examiner or appointed coroner may be removed from office as provided
 2.20 by law. by the county board during a term of office for cause shown after a hearing upon
 2.21 due notice of written charges. The hearing shall be conducted in accordance with that
 2.22 county's human resources policy.

2.23 **EFFECTIVE DATE.** This section is effective July 1, 2006.

2.24 Sec. 55. **[390.0065] HENNEPIN COUNTY MEDICAL EXAMINER;**
 2.25 **SELECTION AND TERM.**

2.26 Hennepin County shall use the following procedure to select the Hennepin County
 2.27 medical examiner: The Hennepin County Board shall designate three licensed physicians
 2.28 who shall constitute a Medical Examiner Board. One member shall be a dean or professor
 2.29 of the Department of Pathology of a Class A medical school as designated by the American
 2.30 Medical Association. Another member of the board shall be a member of the Minnesota
 2.31 Society of Pathologists. The third member shall be designated by the Hennepin County
 2.32 Medical Association from its membership. The Medical Examiner Board shall accept
 2.33 applications for the position of Hennepin County medical examiner when a vacancy exists
 2.34 in the office. Applications therefore shall be considered from doctors of medicine who
 2.35 are: (1) graduates of a medical school recognized by the American Medical Association

3.1 or American Osteopathic Association, (2) members in good standing in the medical
 3.2 profession, (3) eligible for appointment to the staff of the Hennepin County Medical
 3.3 Center, and (4) certified or eligible for certification in forensic pathology by the American
 3.4 Board of Pathology. The Medical Examiner Board shall review the qualifications of the
 3.5 applicants and shall rank the applicants deemed qualified for the position and provide
 3.6 to the county board a report of the seven highest ranked applicants together with their
 3.7 qualifications. The county board shall appoint a county medical examiner from those
 3.8 listed in the report. The term of the examiner shall continue for four years from the date of
 3.9 appointment. Reappointment shall be made at least 90 days prior to the expiration of the
 3.10 term. If a vacancy requires a temporary appointment, the board of commissioners shall
 3.11 appoint a medical doctor on the staff of the county medical examiner's office to assume
 3.12 the duties of the medical examiner until an appointment can be made in compliance with
 3.13 the specified selection procedure. Actual and necessary expenses of the Medical Examiner
 3.14 Board shall be paid in accordance with sections 471.38 to 471.415.

3.15 **EFFECTIVE DATE.** This section is effective July 1, 2006.

3.16 Sec. 56. Minnesota Statutes 2004, section 390.01, is amended to read:

3.17 **390.01 BOND AND INDEMNIFICATION .**

3.18 ~~Before taking office, the coroner shall post bond to the state in a penal sum set by the~~
 3.19 ~~county board, not less than \$500 nor more than \$10,000. The coroner's bond is subject~~
 3.20 ~~to the same conditions in substance as in the bond required by law to be given by the~~
 3.21 ~~sheriff, except as to the description of the office.~~ The coroner or medical examiner shall
 3.22 be included in the bond held by the county for all appointed and elected county officials
 3.23 and shall be defended and indemnified, pursuant to section 466.07. The bond and oath of
 3.24 office shall be recorded and filed with the county recorder.

3.25 **EFFECTIVE DATE.** This section is effective July 1, 2006.

3.26 Sec. 57. **[390.011] AUTONOMY.**

3.27 The coroner or medical examiner is an independent official of the county, subject
 3.28 only to appointment, removal, and budgeting by the county board.

3.29 **EFFECTIVE DATE.** This section is effective July 1, 2006.

3.30 Sec. 58. **[390.012] JURISDICTION.**

3.31 The coroner or medical examiner of the county in which a person dies or is
 3.32 pronounced dead shall have jurisdiction over the death, regardless of where any injury that
 3.33 resulted in the death occurred. The place where death is pronounced is deemed to be the
 3.34 place where death occurred. If the place of death is unknown but the dead body is found in

4.1 Minnesota, the place where the body is found is considered the place of death. If the date
 4.2 of death is unknown, the date the body is found is considered the date of death, but only for
 4.3 purposes of this chapter. When a death occurs in a moving conveyance and the body is first
 4.4 removed in Minnesota, documentation of death must be filed in Minnesota and the place
 4.5 of death is considered the place where the body is first removed from the conveyance.

4.6 **EFFECTIVE DATE.** This section is effective July 1, 2006.

4.7 Sec. 59. Minnesota Statutes 2004, section 390.04, is amended to read:

4.8 **390.04 TO ACT WHEN SHERIFF A PARTY TO AN ACTION PROVISION**
 4.9 **FOR TRANSFER OF JURISDICTION.**

4.10 When the sheriff is a party to an action or when a party, or a party's agent or
 4.11 attorney, files with the court administrator of the district court an affidavit stating that the
 4.12 party believes the sheriff, coroner or medical examiner, because of partiality, prejudice,
 4.13 consanguinity, or interest, will is not faithfully able to perform the sheriff's coroner or
 4.14 medical examiner's duties in an action commenced, or about to be commenced, the clerk
 4.15 shall direct process in the action to the coroner. The coroner shall perform the duties of
 4.16 the sheriff relative to the action in the same manner required for a sheriff, the coroner or
 4.17 medical examiner shall have the authority to transfer jurisdiction to another coroner or
 4.18 medical examiner, as arranged by the county board.

4.19 **EFFECTIVE DATE.** This section is effective July 1, 2006.

4.20 Sec. 60. Minnesota Statutes 2005 Supplement, section 390.05, is amended to read:

4.21 **390.05 DEPUTIES MEDICAL EXAMINER OR CORONER STAFF.**

4.22 ~~A~~ ~~The coroner shall~~ or medical examiner may appoint one or more ~~deputies.~~
 4.23 assistant coroners or assistant medical examiners, as necessary to fulfill the duties of the
 4.24 office, subject to authorization by the county board. Such assistants shall have the same
 4.25 qualifications as a coroner or medical examiner. When the coroner or medical examiner is
 4.26 absent or unable to act, ~~deputies~~ assistants shall have the same powers and duties and are
 4.27 subject to the same ~~liabilities as coroners.~~ A deputy shall be appointed in writing. The
 4.28 oath and appointment shall be recorded with the county recorder. The deputy shall act by
 4.29 name as deputy coroner and hold office at the same time as the coroner. limitations as the
 4.30 coroner or medical examiner. The assistants shall be appointed in writing, shall take an
 4.31 oath that shall be recorded and filed with the county recorder, and shall be included in the
 4.32 county bond. The assistant shall act by name as assistant coroner or medical examiner and
 4.33 hold office at the pleasure of the coroner or medical examiner.

4.34 A coroner or medical examiner may appoint one or more investigators, with such
 4.35 qualifications as the coroner or medical examiner deems appropriate. Such investigators

5.1 shall have the powers and duties that are delegated to them by the coroner or medical
 5.2 examiner. Unless they are public employees of that county, investigators shall be
 5.3 appointed in writing and take an oath, shall be included in the county bond, and the
 5.4 oath and appointment shall be recorded and filed with the county recorder. Subject to
 5.5 authorization of the county board, assistants may be appointed to the unclassified service
 5.6 and investigators to the classified service of the county.

5.7 **EFFECTIVE DATE.** This section is effective July 1, 2006.

5.8 Sec. 61. **[390.061] MORGUE.**

5.9 Every county need not have a morgue, but there must be a system or process for
 5.10 receiving, storing, and releasing all dead bodies subject to this statute.

5.11 **EFFECTIVE DATE.** This section is effective July 1, 2006.

5.12 Sec. 62. Minnesota Statutes 2004, section 390.11, is amended to read:

5.13 **390.11 INVESTIGATIONS AND INQUESTS.**

5.14 Subdivision 1. ~~Deaths requiring inquests and investigations~~ Reports of death.

5.15 ~~Except as provided in subdivision 1a, the coroner shall investigate and may conduct~~
 5.16 ~~inquests in all human deaths of the following types:~~ All sudden or unexpected deaths
 5.17 and all deaths that may be due entirely or in part to any factor other than natural disease
 5.18 processes must be promptly reported to the coroner or medical examiner for evaluation.
 5.19 Sufficient information must be provided to the coroner or medical examiner. Reportable
 5.20 deaths include, but are not limited to:

5.21 (1) unnatural deaths, including violent deaths, whether apparently homicidal,
 5.22 suicidal, or accidental, including but not limited to deaths due to thermal, chemical,
 5.23 electrical, or radiational injury, and deaths due to criminal abortion, whether apparently
 5.24 self induced or not, arising from homicide, suicide, or accident;

5.25 (2) deaths due to a fire or associated with burns or chemical, electrical, or radiation
 5.26 injury;

5.27 (3) unexplained or unexpected perinatal and postpartum maternal deaths;

5.28 ~~(2)~~ (4) deaths under suspicious, unusual, or mysterious unexpected circumstances;

5.29 ~~(3)~~ (5) deaths of persons whose bodies are to be cremated, dissected, buried at sea,
 5.30 or otherwise disposed of so that the bodies will later be unavailable for examination; and

5.31 ~~(4)~~ (6) deaths of inmates of public institutions and persons in custody of law
 5.32 enforcement officers who are have not been hospitalized primarily for organic disease and
 5.33 whose deaths are not of any type referred to in clause (1) or (2).;

5.34 (7) deaths that occur during, in association with, or as the result of diagnostic,
 5.35 therapeutic, or anesthetic procedures;

- 6.1 (8) deaths due to culpable neglect;
6.2 (9) stillbirths of 20 weeks or longer gestation unattended by a physician;
6.3 (10) sudden deaths of persons not affected by recognizable disease;
6.4 (11) unexpected deaths of persons notwithstanding a history of underlying disease;
6.5 (12) deaths in which a fracture of a major bone such as a femur, humerus, or tibia
6.6 has occurred within the past six months;
6.7 (13) deaths unattended by a physician occurring outside of a licensed health care
6.8 facility or licensed residential hospice program;
6.9 (14) deaths of persons not seen by their physician within 120 days of demise;
6.10 (15) deaths of persons occurring in an emergency department;
6.11 (16) stillbirths or deaths of newborn infants in which there has been maternal use of
6.12 or exposure to unprescribed controlled substances including street drugs or in which there
6.13 is history or evidence of maternal trauma;
6.14 (17) unexpected deaths of children;
6.15 (18) solid organ donors;
6.16 (19) unidentified bodies;
6.17 (20) skeletonized remains;
6.18 (21) deaths occurring within 24 hours of arrival at a health care facility if death
6.19 is unexpected;
6.20 (22) deaths associated with the decedent's employment;
6.21 (23) deaths of nonregistered hospice patients or patients in nonlicensed hospice
6.22 programs; and
6.23 (24) deaths attributable to acts of terrorism.

6.24 The coroner or medical examiner shall determine the extent of the coroner's or medical
6.25 examiner's investigation, including whether additional investigation is needed by the
6.26 coroner or medical examiner, jurisdiction is assumed, or an autopsy will be performed,
6.27 notwithstanding any other statute.

6.28 **Subd. 1a. Commissioner of corrections; investigation of deaths.** ~~The~~
6.29 ~~commissioner of corrections may require that all Department of Corrections incarcerated~~
6.30 ~~deaths be reviewed by an independent, contracted, board-certified forensic pathologist.~~
6.31 For deaths occurring within a facility licensed by the Department of Corrections, the
6.32 coroner or medical examiner shall ensure that a forensic pathologist who is certified by
6.33 the American Board of Pathology reviews each death and performs an autopsy on all
6.34 unnatural, unattended, or unexpected deaths and others as necessary.

6.35 **Subd. 1b. Hospice registration.** Each coroner and medical examiner shall establish
6.36 a registration policy regarding hospice patients. If a hospice patient is determined to be

7.1 properly preregistered, the coroner or medical examiner may treat the death as attended
7.2 by a physician.

7.3 Subd. 2. ~~Violent or mysterious deaths; Autopsies.~~ The coroner or medical
7.4 examiner may ~~conduct~~ order an autopsy, at the coroner or medical examiner's sole
7.5 discretion, in the case of any human death referred to in subdivision 1, clause (1) or (2),
7.6 when, in the judgment of the coroner ~~judges that~~ or medical examiner the public interest
7.7 requires would be served by an autopsy, except that an autopsy must be conducted in all
7.8 unattended inmate deaths that occur in a state correctional facility. The autopsy shall be
7.9 performed without unnecessary delay. A report of the facts developed by the autopsy
7.10 and findings of the person performing the autopsy shall be made promptly and filed in
7.11 the office of the coroner or medical examiner. When further investigation is deemed
7.12 advisable, a copy of the report shall be delivered to the county attorney. Every autopsy
7.13 performed pursuant to this subdivision shall, whenever practical, be performed in the
7.14 county morgue. Nothing herein shall require the coroner or medical examiner to order an
7.15 autopsy upon the body of a deceased person if the person died of known or ascertainable
7.16 causes or had been under the care of a licensed physician immediately prior to death or if
7.17 the coroner or medical examiner determines the autopsy to be unnecessary.

7.18 Autopsies performed pursuant to this subdivision may include the removal,
7.19 retention, testing, or use of organs, parts of organs, fluids or tissues, at the discretion of
7.20 the coroner or medical examiner, when removal, retention, testing, or use may be useful
7.21 in determining or confirming the cause of death, mechanism of death, manner of death,
7.22 identification of the deceased, presence of disease or injury or preservation of evidence.
7.23 Such tissue retained by the coroner or medical examiner pursuant to this subdivision shall
7.24 be disposed of in accordance with standard biohazardous hospital and/or surgical material
7.25 and does not require specific consent or notification of the legal next of kin. When
7.26 removal, retention, testing, and use of organs, parts of organs, fluids, or tissues is deemed
7.27 beneficial, and is done only for research or the advancement of medical knowledge and
7.28 progress, written consent or documented oral consent shall be obtained from the legal next
7.29 of kin, if any, of the deceased person prior to the removal, retention, testing, or use.

7.30 Subd. 2a. **Deaths caused by fire; autopsies.** ~~The coroner shall conduct an autopsy~~
7.31 ~~in the case of any human death reported to the coroner by the state fire marshal or a chief~~
7.32 ~~officer under section 299F.04, subdivision 5, and apparently caused by fire. The coroner~~
7.33 or medical examiner shall conduct an autopsy or require that one be performed in the
7.34 case of a death reported to the coroner or medical examiner by the state fire marshal or a
7.35 chief officer under section 299F.04, subdivision 5, and apparently caused by fire, and in
7.36 which the decedent is pronounced dead outside of a hospital or in which identification

8.1 of the decedent has not been confirmed. If the decedent has died in a hospital and
8.2 identification is not in question, an autopsy may be performed or ordered by the coroner or
8.3 medical examiner.

8.4 Subd. 3. ~~Other deaths, autopsies, Exhumation; consent disinterment.~~ The
8.5 coroner ~~may conduct an autopsy in the case of any human death referred to in subdivision~~
8.6 ~~1, clause (3) or (4), or medical examiner may exhume any human body and perform~~
8.7 ~~an autopsy on it in the case of any human death referred to in subdivision 1 when the~~
8.8 ~~coroner or medical examiner judges that the public interest requires an autopsy. No~~
8.9 ~~autopsy exhumation shall be conducted unless the surviving spouse, or legal next of kin~~
8.10 ~~if there is no surviving spouse, consents to it, or the district court of the county where the~~
8.11 ~~body is located or buried, upon notice as the court directs, enters an order authorizing an~~
8.12 ~~autopsy or an exhumation and autopsy orders it. Notice of such exhumation shall be given~~
8.13 ~~as directed by the district court. Application for an order may be made by the coroner,~~
8.14 ~~medical examiner, or by the county attorney of the county where the body is located or~~
8.15 ~~buried, and shall be granted upon a showing that the court deems appropriate.~~

8.16 Subd. 4. **Assistance of medical specialists.** If during an investigation the coroner or
8.17 medical examiner believes the assistance of pathologists, toxicologists, ~~deputy coroners,~~
8.18 ~~laboratory technicians, or other medical, scientific, or forensic experts is necessary to~~
8.19 ~~determine or confirm the cause or manner of death, identification, time of death, or to~~
8.20 ~~address other issues requiring expert opinion, the coroner shall or medical examiner may~~
8.21 ~~obtain their assistance.~~

8.22 Subd. 5. **Inquest.** An inquest into a death may be held at the request of the medical
8.23 examiner and the county attorney or the coroner and the county attorney. An inquest is
8.24 optional and the coroner or medical examiner may investigate and certify a death without
8.25 one. The coroner or medical examiner and county attorney may decide how to empanel
8.26 the inquest. Inquest records will be made public, but the record and report of the inquest
8.27 proceedings may not be used in evidence in any civil action arising out of the death for
8.28 which an inquest was ordered. Before an inquest is held, the coroner shall notify the
8.29 county attorney to appear and examine witnesses at the inquest.
8.30 Whenever the decision is made to hold an inquest, the county attorney may issue
8.31 subpoenas for witnesses and enforce their attendance. The persons served with subpoenas
8.32 shall be allowed the same compensation and be subject to the same enforcement and
8.33 penalties as provided by Rule 22 of the Minnesota Rules of Criminal Procedure.

8.34 Subd. 6. **Records kept by coroner or medical examiner.** The coroner or medical
8.35 examiner shall keep full and complete records, properly indexed records, giving the name,

9.1 if known, of every person whose death is investigated, the place where the body was
9.2 found, the date, cause, and manner of death, and all other ~~relevant~~ available information
9.3 concerning the death: that the coroner or medical examiner considers pertinent. These
9.4 records of the coroner or medical examiner are the property of the county and subject to
9.5 chapter 13. These records shall be kept at the coroner's or medical examiner's office,
9.6 unless no storage space is available. They shall then be kept with official county records
9.7 and only released in accordance with the Data Practices Act. Records shall be kept in
9.8 accordance with section 15.17.

9.9 Subd. 7. **Reports Duty to report.** ~~(a)~~ Deaths of the types described in this section
9.10 must be promptly reported for investigation to the coroner or medical examiner and, when
9.11 appropriate, to the law enforcement agency with jurisdiction, by the law enforcement
9.12 officer, attending physician, health care professional, mortician or funeral director, person
9.13 in charge of the public institutions referred to in subdivision 1, or ~~other person with~~
9.14 knowledge of the death. anyone who discovers a deceased person. In a case in which a
9.15 crime may be involved, the coroner or medical examiner shall promptly notify the law
9.16 enforcement agency with jurisdiction over a criminal investigation of the death.

9.17 Subd. 7a. **Records and other material available to coroner or medical examiner.**
9.18 ~~(b) For the purposes of this section, health-related records or data on a decedent, Except~~
9.19 for health data defined in section 13.3805, subdivision 1, paragraph (a), clause (2),
9.20 health-related records or data on a decedent whose death is being investigated under
9.21 this section, ~~whether the records or data are recorded or unrecorded, including but~~
9.22 not limited to those concerning medical, surgical, psychiatric, psychological, or any
9.23 other consultation, diagnosis, or treatment, including medical imaging, shall be made
9.24 promptly available to the coroner or medical examiner, upon the coroner's or medical
9.25 examiner's written request, by a ~~any person, agency, entity, or organization~~ having
9.26 custody of, possession of, access to, or knowledge of the records or data. This provision
9.27 includes records and data, whether recorded or unrecorded, including but not limited to,
9.28 records and data, including medical imaging, concerning medical, surgical, psychiatric,
9.29 psychological, chemical dependency, or any other consultation, diagnosis, or treatment. In
9.30 cases involving a stillborn infant or the death of a fetus or infant less than one year of age,
9.31 the prenatal records on the decedent's mother shall also be made available promptly to the
9.32 coroner or medical examiner. The coroner or medical examiner shall pay the reasonable
9.33 costs of copies of records or data so provided to the coroner under this section. Data
9.34 collected or created pursuant to this subdivision relating to any psychiatric, psychological,
9.35 or mental health consultation with, diagnosis of, or treatment of the decedent whose
9.36 death is being investigated shall remain confidential or protected nonpublic data, except

10.1 that the coroner's or medical examiner's final summary report may contain a summary
10.2 of, or references to, such data. Where records of a decedent become part of the medical
10.3 examiner's or coroner's file, they are not subject to subpoena or a request for production
10.4 directed to the medical examiner or coroner. Body fluids, slides, tissue, organ specimens,
10.5 radiographs, monitor records, video or other recordings, and any other material or article
10.6 of diagnostic value obtained from the decedent prior to death, shall be made available to
10.7 the coroner or medical examiner upon request. Notwithstanding the provisions of sections
10.8 13.384 and 595.02, the coroner or medical examiner shall have the power to subpoena any
10.9 and all documents, records, including medical records, and papers deemed useful in the
10.10 investigation of a death.

10.11 Subd. 7b. Records released by coroner or medical examiner. Records and
10.12 reports, including those of autopsies performed, generated, and certified by the coroner or
10.13 medical examiner shall be admissible as evidence in any court or grand jury proceeding.
10.14 The admissibility of such evidence under this subdivision shall not include statements
10.15 made by witnesses or other persons unless otherwise admissible.

10.16 Subd. 8. Investigation procedure; coroner or medical examiner in charge of
10.17 body. Upon notification of a the death subject to of any person as defined in this section,
10.18 the coroner or ~~deputy shall~~ medical examiner staff or their designee may proceed to the
10.19 body, take charge of it, and; arrange for transfer of it, when appropriate. This provision
10.20 also applies to bones, body parts, and specimens that may be human remains. Discovery
10.21 of such bones, body parts, and specimens must be promptly reported to the coroner or
10.22 medical examiner. When necessary, the coroner or medical examiner staff, in coordination
10.23 with the applicable law enforcement agency, may order that there be no interference with
10.24 or compromise of the body or the scene of death. In the event a person is transported to
10.25 an emergency vehicle or facility and pronounced dead, the scene of death shall include
10.26 the original location of the decedent when first discovered to be ill, unresponsive, or
10.27 stricken prior to removal by emergency medical personnel. Any person violating such
10.28 an order is guilty of a gross misdemeanor. The coroner or medical examiner staff shall
10.29 make inquiry regarding the cause and manner of death and, in cases that fall under the
10.30 medical examiner's or coroner's jurisdiction, prepare written findings together with the
10.31 report of death and its circumstances, which shall be filed in the office of the coroner or
10.32 medical examiner.

10.33 Subd. 9. Criminal act report. ~~On coming to believe that the death may have~~
10.34 ~~resulted from a criminal act,~~ The coroner or ~~deputy~~ medical examiner shall deliver a
10.35 signed to the county attorney copies of reports or other information created by the

11.1 coroner's or medical examiner's office in any cases of a potential criminal nature. ~~copy of~~
 11.2 ~~the report of investigation or inquest to the county attorney.~~

11.3 Subd. 10. **Sudden Infant death.** If a child under the age of two years dies suddenly
 11.4 and unexpectedly ~~under circumstances indicating that the death may have been caused~~
 11.5 ~~by sudden infant death syndrome, the coroner, medical examiner, or personal physician~~
 11.6 ~~shall notify the child's parents or guardian that an autopsy is essential to establish the~~
 11.7 ~~cause of death as sudden infant death syndrome. If an autopsy reveals that sudden infant~~
 11.8 ~~death syndrome is the cause of death, that fact must be stated in the autopsy report., the~~
 11.9 parents or guardian of the child shall be promptly notified of the ~~cause of death and of the~~
 11.10 availability of counseling services.

11.11 Subd. 11. **Autopsy fees.** ~~The coroner may charge a reasonable fee to a person~~
 11.12 ~~requesting an autopsy if the autopsy would not otherwise be conducted under subdivision~~
 11.13 ~~1, 2, or 3.~~

11.14 Subd. 12. **Authorized removal of the brain.** If the coroner or medical examiner is
 11.15 informed by a physician ~~or pathologist~~ that a ~~dead person~~ decedent is suspected of having
 11.16 had Alzheimer's disease, the coroner ~~shall~~ or medical examiner may authorize the removal
 11.17 of the brain ~~of the dead person~~ for the purposes of sections 145.131 and 145.132.

11.18 **EFFECTIVE DATE.** This section is effective July 1, 2006.

11.19 Sec. 63. Minnesota Statutes 2004, section 390.111, is amended to read:

11.20 **390.111 EXPENSES AND COMPENSATION.**

11.21 The county board ~~may allow~~ is responsible for the reasonable and necessary
 11.22 compensation and expenses of the coroner or ~~deputies~~ incurred for telephone tolls,
 11.23 telegrams, postage, the cost of transcribing the testimony taken at an inquest, and other
 11.24 expenses incurred solely for the officers' official business under this chapter. medical
 11.25 examiner, assistants, investigators, and other medical specialists.

11.26 **EFFECTIVE DATE.** This section is effective July 1, 2006.

11.27 Sec. 64. Minnesota Statutes 2004, section 390.15, is amended to read:

11.28 **390.15 WITNESSES; FEES.**

11.29 The coroner or medical examiner ~~may issue subpoenas for witnesses, returnable~~
 11.30 ~~immediately or at a specified time and place. The persons served with the subpoenas shall~~
 11.31 ~~be allowed the fees, the coroner shall enforce their attendance, and they shall be subject~~
 11.32 ~~to the penalties provided by statute or the Rules of Criminal Procedure.~~ charge a fee for
 11.33 cremation approval, duplication of reports, and other administrative functions to recover
 11.34 reasonable expenses, subject to county board approval.

12.1 EFFECTIVE DATE. This section is effective July 1, 2006.

12.2 Sec. 65. [390.151] ORGAN AND TISSUE DONATION.

12.3 The coroner or medical examiner may facilitate donation of organs and tissues in
12.4 compliance with the Uniform Anatomical Gift Act, sections 525.921 to 525.9224.

12.5 EFFECTIVE DATE. This section is effective July 1, 2006.

12.6 Sec. 66. [390.152] CREMATION APPROVAL.

12.7 After investigating deaths of persons who are to be cremated, the coroner or medical
12.8 examiner may give approval for cremation and shall record such approval by either
12.9 signing a cremation authorization form, or electronically through the centralized electronic
12.10 system for the processing of death records established by the state registrar. It shall be a
12.11 misdemeanor to perform a cremation without such approval.

12.12 EFFECTIVE DATE. This section is effective July 1, 2006.

12.13 Sec. 67. Minnesota Statutes 2004, section 390.21, is amended to read:

12.14 **390.21 DISPOSITION; BURIAL.**

12.15 ~~When a coroner holds an inquest upon view of the dead body of any person~~
12.16 ~~unknown, or, being called for that purpose, does not think it necessary, on view of~~
12.17 ~~the body, that an inquest be held, the coroner shall have the body decently buried. All~~
12.18 ~~expenses of the inquisition and burial shall be paid by the county where the dead body is~~
12.19 ~~found.~~ After an investigation has been completed, including an autopsy if one is done, the
12.20 body shall be released promptly to the person or persons who have the right to control the
12.21 disposition of the body. Section 149A.80, subdivision 2, shall control. If the identity of
12.22 the deceased person is unknown, or if the body is unclaimed, the medical examiner or
12.23 coroner shall provide for dignified burial or storage of the remains. Dignified burial shall
12.24 not include cremation, donation for anatomic dissection, burial at sea, or other disposition
12.25 that will make the body later unavailable. The county where the dead body is found shall
12.26 pay reasonable expenses of the burial. If an estate is opened within six years and claim
12.27 made for the property or proceeds of the sale of the property of the decedent, the county
12.28 shall be reimbursed the amount spent on burial, with interest at the statutory rate.

12.29 EFFECTIVE DATE. This section is effective July 1, 2006.

12.30 Sec. 68. Minnesota Statutes 2004, section 390.221, is amended to read:

12.31 **390.221 BODIES; EFFECTS; CUSTODY.**

12.32 A person may not ~~remove~~ move, interfere with, or handle the body or the effects
12.33 of ~~any person~~ a decedent subject to an investigation by the ~~county~~ coroner or medical
12.34 examiner except upon order of the coroner ~~or~~, medical examiner, assistant, or deputy

13.1 authorized investigator. The coroner or medical examiner shall take charge of the effects
13.2 found on or near the body of a deceased person and dispose of them as the ~~district~~
13.3 ~~court directs by written order~~ directed under section 390.225. If a crime is suspected
13.4 in connection with the death of a deceased person ~~is suspected~~, the coroner or medical
13.5 examiner may prevent any person, except law enforcement personnel, from entering the
13.6 premises, rooms, or buildings, and shall have the custody of objects that the coroner or
13.7 examiner deems material evidence in the case. The coroner or medical examiner shall
13.8 release any property or articles needed for any criminal investigation to law enforcement
13.9 officers conducting the investigation, except as noted in section 390.225, subdivision 2. A
13.10 ~~willful~~ knowing violation of this section is a gross misdemeanor.

13.11 **EFFECTIVE DATE.** This section is effective July 1, 2006.

13.12 Sec. 69. **[390.225] PROPERTY.**

13.13 Subdivision 1. **Procedure.** The coroner or medical examiner may take possession of
13.14 all articles that may be useful in establishing the cause or manner of death, identification,
13.15 or next of kin of the deceased, and, if taken, mark them for identification, make an
13.16 inventory, and retain them securely until they are no longer needed for evidence or
13.17 investigation. Except as noted in subdivision 2, the coroner or medical examiner shall
13.18 release any property or articles needed for any criminal investigation to law enforcement
13.19 officers conducting the investigation.

13.20 Subd. 2. **Retention of property.** When a reasonable basis exists for not releasing
13.21 property or articles to law enforcement officers, the coroner or medical examiner shall
13.22 consult with the county attorney. If the county attorney determines that a reasonable basis
13.23 exists for not releasing the property or articles, the coroner or medical examiner may
13.24 retain them. The coroner or medical examiner shall obtain written confirmation of this
13.25 opinion and keep a copy in the decedent's file.

13.26 Subd. 3. **Release of property.** With the exception of firearms, when property or
13.27 articles are no longer needed for the investigation or as evidence, the coroner or medical
13.28 examiner shall release such property or articles to the person or persons entitled to them.
13.29 Personal property, including wearing apparel, may be released to the person entitled to
13.30 control the disposition of the body of the decedent or to the personal representative of the
13.31 decedent. Personal property not otherwise released pursuant to this subdivision must be
13.32 disposed of pursuant to section 525.393.

13.33 Subd. 4. **Firearms.** The coroner or medical examiner shall release all firearms,
13.34 when no longer needed, to the law enforcement agency handling the investigation.

14.1 Subd. 5. Property of unknown decedents. If the name of the decedent is not
 14.2 known, the coroner or medical examiner shall release such property to the county for
 14.3 disposal or sale. If the unknown decedent's identity is established and if a representative
 14.4 shall qualify within six years from the time of such sale, the county administrator, or a
 14.5 designee, shall pay the amount of the proceeds of the sale to the representative on behalf
 14.6 of the estate upon order of the court. If no order is made within six years, the proceeds of
 14.7 the sale shall become a part of the general revenue of the county.

14.8 EFFECTIVE DATE. This section is effective July 1, 2006.

14.9 Sec. 70. Minnesota Statutes 2004, section 390.23, is amended to read:

14.10 **390.23 DEATH RECORDS ~~OF VIOLENT OR MYSTERIOUS DEATH.~~**

14.11 ~~No person, other than the county coroner, or medical examiner, judge exercising~~
 14.12 ~~probate jurisdiction, or Department of Corrections' independent, contracted,~~
 14.13 ~~board-certified forensic pathologist, or, for deaths occurring within a facility licensed by~~
 14.14 ~~the Department of Corrections, the forensic pathologist who reviewed the death, shall issue~~
 14.15 ~~a record file or amend the cause or manner of death information with the state registrar in~~
 14.16 ~~cases of likely or suspected accidental, suicidal, homicidal, violent, or mysterious deaths;~~
 14.17 ~~including suspected homicides, occurring in the county. The Department of Corrections'~~
 14.18 ~~independent, contracted, board-certified forensic pathologist must issue the certificate of~~
 14.19 ~~death in all Department of Corrections-incarcerated deaths. The forensic pathologist who~~
 14.20 ~~reviewed the death of an incarcerated person within a facility licensed by the Department~~
 14.21 ~~of Corrections may file or amend the cause or manner of death information with the State~~
 14.22 ~~Registrar. If there is reasonable proof that a death has occurred, but no body has been~~
 14.23 ~~found, a judge may direct the state registrar to register the death with the fact of death~~
 14.24 ~~information provided by the court order according to section 144.221 subdivision 3.~~

14.25 EFFECTIVE DATE. This section is effective July 1, 2006.

14.26 Sec. 71. Minnesota Statutes 2004, section 390.25, is amended to read:

14.27 **390.25 FINGERPRINTING OF UNIDENTIFIED DECEASED PERSON**
 14.28 **PERSONS.**

14.29 Subdivision 1. Attempts to identify. Each coroner shall have fingerprinted all
 14.30 deceased persons in the county whose identity is not immediately established. Within
 14.31 24 hours after the body is found, the coroner shall forward to the Bureau of Criminal
 14.32 Apprehension the fingerprints, fingerprint records, and other identification data. The
 14.33 superintendent of the bureau shall prescribe the form of these reports. The duties are in
 14.34 addition to those imposed on the coroner by section 525.393. The coroner or medical
 14.35 examiner shall make reasonable attempts to identify the deceased person promptly. These

15.1 actions may include obtaining: photographs of the body; fingerprints from the body, if
15.2 possible; formal dental examination by a dentist with forensic training, with charting and
15.3 radiographs; full body radiographs; specimens such as tissue, blood, bone, teeth, and/or
15.4 hair, suitable for DNA analysis or other identification techniques; blood type; photographs
15.5 of items such as clothing and property found on and with the body; and anthropological
15.6 determination of age, race, sex, and stature, if appropriate. All of these actions shall be
15.7 taken prior to the disposition of any unidentified deceased person.

15.8 Subd. 2. Report to BCA. After 60 days, the coroner or medical examiner
15.9 shall provide to the Bureau of Criminal Apprehension missing persons clearinghouse
15.10 information to be entered into federal and state databases that can aid in the identification,
15.11 including the National Crime Information Center database. The coroner or medical
15.12 examiner shall provide to the Bureau of Criminal Apprehension specimens suitable for
15.13 DNA analysis. DNA profiles and information shall be entered by the Bureau of Criminal
15.14 Apprehension into federal and state DNA databases within five business days after the
15.15 completion of the DNA analysis and procedures necessary for the entry of the DNA profile.

15.16 Subd. 3. Other efforts to identify. Nothing in this section shall be interpreted
15.17 to preclude any medical examiner or coroner from pursuing other efforts to identify
15.18 unidentified deceased persons, including publicizing information, descriptions, or
15.19 photographs that may aid in the identification, allow family members to identify missing
15.20 persons, and seek to protect the dignity of the missing persons.

15.21 Subd. 4. Preservation of data. The coroner or medical examiner may preserve
15.22 and retain photographs, specimens, documents, and other data such as dental records,
15.23 radiographs, fingerprints, or DNA, for establishing or confirming the identification of
15.24 bodies or for other forensic purposes deemed appropriate under the jurisdiction of the
15.25 office. Upon request by an appropriate agency, or upon the coroner or medical examiner's
15.26 own initiative, the coroner or medical examiner may make the information available to aid
15.27 in the establishment of the identity of a deceased person.

15.28 Subd. 5. Notice to state archaeologist. After the coroner or medical examiner
15.29 has completed the investigation, the coroner or medical examiner shall notify the state
15.30 archaeologist, according to section 307.08, of all unidentified human remains found
15.31 outside of platted, recorded, or identified cemeteries and in contexts which indicate
15.32 antiquity of greater than 50 years.

15.33 EFFECTIVE DATE. This section is effective July 1, 2006.

15.34 Sec. 72. [390.251] REQUEST FOR EXAMINATIONS.

16.1 The coroner or medical examiner may, when requested, make physical examinations
 16.2 and tests incident to any matter of a criminal nature under consideration by the district
 16.3 court or county attorney, law enforcement agency, or publicly appointed criminal defense
 16.4 counsel, and shall deliver a copy of a report of such tests and examinations to the person
 16.5 making the request. Such an examination does not establish a doctor-patient relationship.
 16.6 The person making the request shall pay the cost of such examinations and tests.

16.7 **EFFECTIVE DATE.** This section is effective July 1, 2006.

16.8 Sec. 73. **[390.252] CONTRACTS FOR SERVICES.**

16.9 A county board may contract to perform coroner or medical examiner services
 16.10 with other units of government or their agencies under a schedule of fees approved by
 16.11 that board.

16.12 **EFFECTIVE DATE.** This section is effective July 1, 2006."

16.13 Page 49, line 29, before "609.108"insert "383A.36; 383B.225; 390.006; 390.06;
 16.14 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; 390.36;"

16.15 Renumber the sections in sequence and correct the internal references

16.16 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 35, after line 29, insert:

1.4 "Sec. 57. Minnesota Statutes 2004, section 609.2231, subdivision 6, is amended to
1.5 read:

1.6 Subd. 6. **Public employees with mandated duties.** A person is guilty of a gross
1.7 misdemeanor who:

1.8 (1) assaults an agricultural inspector, occupational safety and health investigator,
1.9 child protection worker, public health nurse, animal control officer, or probation or parole
1.10 officer while the employee is engaged in the performance of a duty mandated by law,
1.11 court order, or ordinance;

1.12 (2) knows that the victim is a public employee engaged in the performance of the
1.13 official public duties of the office; and

1.14 (3) inflicts demonstrable bodily harm.

1.15 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
1.16 committed on or after that date."

1.17 Renumber the sections in sequence and correct the internal references

1.18 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 35, after line 29, insert:

1.4 "Sec. 57. Minnesota Statutes 2004, section 609.233, subdivision 1, is amended to
1.5 read:

1.6 Subdivision 1. **Crime.** A caregiver or operator who intentionally neglects a
1.7 vulnerable adult or knowingly permits conditions to exist that result in the abuse or
1.8 neglect of a vulnerable adult is guilty of ~~a gross misdemeanor~~ criminal neglect and may
1.9 be sentenced as provided in subdivision 3. For purposes of this section, "abuse" has the
1.10 meaning given in section 626.5572, subdivision 2, and "neglect" means a failure to provide
1.11 a vulnerable adult with necessary food, clothing, shelter, health care, or supervision.

1.12 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
1.13 committed on or after that date.

1.14 Sec. 58. Minnesota Statutes 2004, section 609.233, is amended by adding a subdivision
1.15 to read:

1.16 Subd. 3. **Penalties.** (a) Except as provided in paragraph (b), a caregiver or operator
1.17 who violates subdivision 1 is guilty of a gross misdemeanor and may be sentenced
1.18 to imprisonment for not more than one year or to payment of a fine of not more than
1.19 \$3,000, or both.

1.20 (b) A caregiver, who is an individual and has responsibility for the care of a
1.21 vulnerable adult as a result of a family relationship, may be sentenced as follows:

1.22 (1) if a violation of subdivision 1 results in the death of the vulnerable adult, to
1.23 imprisonment for not more than ten years or to payment of a fine of not more than
1.24 \$20,000, or both; or

1.25 (2) if a violation of subdivision 1 results in substantial bodily harm or the risk of
1.26 death, to imprisonment for not more than five years or payment of a fine of not more
1.27 than \$10,000, or both.

1.28 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
1.29 committed on or after that date. "

1.30 Renumber the sections in sequence and correct the internal references

1.31 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 19, delete section 34 and insert:

1.4 "Sec. 34. **[241.75] INMATE HEALTH CARE DECISIONS.**

1.5 **Subdivision 1. Definitions.** (a) Except as provided in paragraph (b), the definitions
1.6 in chapter 145C apply to this section.

1.7 (b) "Health care" means any care, treatment, service, or procedure to maintain,
1.8 diagnose, or otherwise affect a person's physical or mental condition.

1.9 **Subd. 2. Health care decisions.** The medical director of the Department of
1.10 Corrections may make a health care decision for an inmate incarcerated in a state
1.11 correctional facility if the inmate's attending physician determines that the inmate lacks
1.12 decision-making capacity and:

1.13 (1) there is not a documented health care agent designated by the inmate or the
1.14 health care agent is not reasonably available to make the health care decision;

1.15 (2) if there is a documented health care directive, the decision is consistent with
1.16 that directive;

1.17 (3) the decision is consistent with reasonable medical practice and other applicable
1.18 law; and

1.19 (4) the medical director has made a good-faith attempt to consult with the inmate's
1.20 next of kin or emergency contact person in making the decision, to the extent those
1.21 persons are reasonably available.

1.22 **Subd. 3. Disagreement regarding health care; guardianship petition.** If the
1.23 medical director consults with an inmate's next of kin under subdivision 2, clause (4), and
1.24 the inmate's next of kin and the medical director are not in agreement with respect to a
1.25 health care decision, the commissioner may bring a petition under section 524.5-303 for
1.26 appointment of a guardian with authority to make health care decisions for the inmate.

1.27 **EFFECTIVE DATE.** This section is effective July 1, 2006."

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 47, after line 10, insert:

1.4 "Sec. 75. COLLATERAL CONSEQUENCES COMMITTEE.

1.5 Subdivision 1. Establishment; duties. A collateral consequences committee
1.6 is established to study collateral consequences of adult convictions and juvenile
1.7 adjudications. The committee shall identify the uses of collateral consequences of
1.8 convictions and adjudications and recommend any proposed changes to the legislature on
1.9 collateral consequences.

1.10 Subd. 2. Resources. The Department of Corrections shall provide technical
1.11 assistance to the committee on request, with the assistance of the commissioner of public
1.12 safety and the Sentencing Guidelines Commission.

1.13 Subd. 3. Membership. The committee consists of:

1.14 (1) one representative from each of the following groups:

1.15 (i) crime victim advocates, appointed by the commissioner of public safety;

1.16 (ii) county attorneys, appointed by the Minnesota County Attorneys Association;

1.17 (iii) city attorneys, appointed by the League of Minnesota Cities;

1.18 (iv) district court judges, appointed by the Judicial Council;

1.19 (v) private criminal defense attorneys, appointed by the Minnesota Association of
1.20 Criminal Defense Lawyers;

1.21 (vi) probation officers, appointed by the Minnesota Association of County Probation
1.22 Officers; and

1.23 (vii) the state public defender or a designee; and

1.24 (2) the commissioner of public safety, or a designee, who shall chair the group.

1.25 Subd. 4. Report and recommendations. The committee shall present the
1.26 legislature with its report and recommendations no later than January 15, 2007. The
1.27 report must be presented to the chairs of the senate Crime Prevention and Public Safety
1.28 Committee and the house Public Safety and Finance Committee.

1.29 EFFECTIVE DATE. This section is effective July 1, 2006."

1.30 Renumber the sections in sequence and correct the internal references

1.31 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2919A-1) to S.F. No. 2919 as follows:

1.3 Page 38, after line 12, insert:

1.4 "Sec. 60. Minnesota Statutes 2004, section 609.495, is amended by adding a
1.5 subdivision to read:

1.6 Subd. 5. Venue. Notwithstanding anything to the contrary in section 627.01, an
1.7 offense committed under subdivision 1 or 3 may be prosecuted in:

1.8 (1) the county where the offense occurred;

1.9 (2) the county where the underlying criminal act occurred; or

1.10 (3) the county where the investigating law enforcement agency is located.

1.11 **EFFECTIVE DATE.** This section is effective July 1, 2006."

1.12 Renumber the sections in sequence and correct the internal references

1.13 Amend the title accordingly

2.1 (2) encourage all laboratories, facilities, or entities that conduct forensic analyses to
2.2 report professional negligence or misconduct that substantially affects the integrity of the
2.3 forensic results committed by employees or contractors to the board;

2.4 (3) investigate, in a timely manner, any allegation of professional negligence or
2.5 misconduct that would substantially affect the integrity of the results of a forensic analysis
2.6 conducted by a laboratory, facility, or entity; and

2.7 (4) encourage laboratories, facilities, and entities that conduct forensic analyses to
2.8 become accredited by the American Society of Crime Laboratory Directors/Laboratory
2.9 Accreditation Board (ALCLD/LAB) or other appropriate accrediting body and develop
2.10 and implement a process for those entities to report their accreditation status to the board.

2.11 Subd. 3. **Investigations.** An investigation under subdivision 2, clause (3):

2.12 (1) shall include the preparation of a written report that identifies and describes the
2.13 methods and procedures used to identify:

2.14 (i) the alleged negligence or misconduct;

2.15 (ii) whether negligence or misconduct occurred; and

2.16 (iii) any corrective action required of the laboratory, facility, or entity; and

2.17 (2) may include one or more:

2.18 (i) retrospective reexaminations of other forensic analyses conducted by the
2.19 laboratory, facility, or entity that may involve the same kind of negligence or misconduct;
2.20 and

2.21 (ii) follow-up evaluations of the laboratory, facility, or entity to review:

2.22 (A) the implementation of any corrective action required under clause (1), item
2.23 (iii); or

2.24 (B) the conclusion of any retrospective reexamination under this clause, item (i).

2.25 Subd. 4. **Delegation of duties.** The board by contract may delegate the duties
2.26 described in subdivision 2, clauses (1) and (3), to any person or entity that the board
2.27 determines to be qualified to assume those duties.

2.28 Subd. 5. **Reviews and reports are public.** The board shall make all investigation
2.29 reports completed under subdivision 3, clause (1), available to the public. A report
2.30 completed under subdivision 3, clause (1), in a subsequent civil or criminal proceeding is
2.31 not prima facie evidence of the information or findings contained in the report.

2.32 Subd. 6. **Reports to legislature.** By January 15 of each year, the board shall submit
2.33 any report prepared under subdivision 3, clause (1), during the preceding calendar year to
2.34 the governor and the legislature.

3.1 Subd. 7. Forensic analysis processing time period guidelines. (a) By July 1, 2007,
3.2 the board shall recommend forensic analysis processing time period guidelines applicable
3.3 to the Bureau of Criminal Apprehension and other laboratories, facilities, and entities that
3.4 conduct forensic analyses. When adopting and recommending these guidelines and when
3.5 making other related decisions, the board shall consider the goals and priorities identified
3.6 by the presidential DNA initiative. The board shall consider the feasibility of the Bureau
3.7 of Criminal Apprehension completing the processing of forensic evidence submitted to it
3.8 by sheriffs, chiefs of police, or state or local corrections authorities within the following
3.9 time periods:

3.10 (1) for an alleged homicide, within no later than 72 hours of the time of submission;

3.11 (2) for an alleged violent crime other than an alleged homicide, within no later
3.12 than seven days of the time of submission;

3.13 (3) for an alleged crime not specified in clause (1) or (2), including a violation
3.14 under chapter 169A involving a driving while impaired blood test, within no later than
3.15 three weeks of the time of submission; and

3.16 (4) for DNA analysis of inmates under section 609.117, subdivision 2, within no
3.17 later than 60 days or the term of incarceration, whichever period occurs first.

3.18 (b) The bureau shall report to the board in the time, form, and manner determined
3.19 by the board and keep it informed of the most up-to-date data on the actual forensic
3.20 analysis processing turn around time periods. The board shall compare the actual average
3.21 turnaround times for the categories described in this subdivision to the guidelines adopted
3.22 by the board. By January 15 of each year, the board shall report to the legislature on these
3.23 issues, including the recommendations made by the board to improve turnaround times.

3.24 Subd. 8. Forensic evidence processing deadline. The board shall determine
3.25 reasonable standards and deadlines for the Bureau of Criminal Apprehension to test and
3.26 catalog forensic evidence samples relating to alleged crimes committed, including DNA
3.27 analysis, in their control and possession.

3.28 Subd. 9. Office space. The commissioner of public safety shall provide adequate
3.29 office space and administrative services to the board.

3.30 Subd. 10. Expiration, expenses. Section 15.059 applies to the board, except that
3.31 it does not expire.

3.32 Subd. 11. Definition. As used in this section, "forensic analysis" means a medical,
3.33 chemical, toxicologic, ballistic, or other expert examination or test performed on physical
3.34 evidence, including DNA evidence, for the purpose of determining the connection of the
3.35 evidence to a criminal action."

- 4.1 Page 49, line 20, before "\$....." insert "(a)"
- 4.2 Page 49, after line 23, insert:"
- 4.3 (b) \$..... is appropriated to the superintendent of the Bureau of Criminal
- 4.4 Apprehension from the general fund for the fiscal year ending June 30, 2007, to implement
- 4.5 the Forensic Laboratory Advisory Board in new Minnesota Statutes, section 299C.156."
- 4.6 Renumber the sections in sequence and correct the internal references
- 4.7 Amend the title accordingly